



## **SOUTHEASTERN MICHIGAN MULTIPLE LISTING SERVICE MLS RULES AND REGULATIONS**

### **Listing Procedures**

**Section 1 - LISTING PROCEDURES:** Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the Southeastern Michigan Multiple Listing Service and are taken by All Participants on a listing form, shall be entered into the Multiple Listing Service that flows into the **Southeastern Michigan Multiple Listing Service through the Great Lakes Repository Data Sharing** within three (3) Business Days, excluding weekend, holidays and postal holiday, after all necessary signatures of seller(s) have been obtained: (Amended 11/24/2020)

- (a) Single family homes for sale or exchange.
- (b) Vacant lots and acreage for sale or exchange.
- (c) Two-family, three family and four-family residential buildings for sale or exchange.
- (d) Mobile Homes with Land
- (e) Auction Property
- (f) Coming Soon
- (g) Others as needed

**NOTE 1:** The Multiple Listing Service shall not require any Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the Service, although a "Property Data Form" may be required as approved by the Multiple Listing Service. However, the Multiple Listing Service, through its legal counsel:

1. May reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the other Participants.
2. Assure that no listing form filed with the Multiple Listing Service establishes, directly or indirectly, any contractual relationship between the Multiple Listing Service and the client (buyer or seller).

The Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer cooperation and compensation to the other Participants of the Multiple Listing Service acting as subagents, buyer agents, transactions coordinators, or both subagents and buyer agents.

The listing agreement must include the seller's authorization to submit the agreement to the Multiple Listing Service.

3. The different types of listing agreements include:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (d) net

The Service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted except where required by law because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

The exclusive right to sell listing is the conventional form of listing submitted to the Multiple Listing Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.

Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations. (Amended 04/92)

**NOTE 2:** A Multiple Listing Service does not regulate the type of listings its Participants may take. This does not mean that a Multiple Listing Service must accept every type of listing. The Multiple Listing Service shall decline to accept open listings (except where acceptance is required by law) and net listings and it may limit its service to listings of certain kinds of property. But if it chooses to limit the kind of listings it will accept, it shall leave its Participants free to accept such listings to be handled outside of the Multiple Listing Service.

**NOTE 3:** A Multiple Listing Service may, as a matter of local opinion, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. (Adopted 11/92)

### **Section 1.01 Clear Cooperation:**

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 02/2020)

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

## **TYPES OF PROPERTIES:**

The following are some of the types of properties that may be published through the service including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the Service at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker: (Adopted 11/24/2020)

1. Residential
2. Residential Income
3. Subdivided Vacant Lot
4. Land and Ranch
5. Business Opportunity
6. Mobile Homes with Land
7. Auction Properties
8. Coming Soon
9. Others as needed

### **Section 1.1 - LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE**

**SERVICE:** Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the Rules and Regulations of the Service upon signature of the seller(s).

**Section 1.2 - DETAIL ON LISTINGS FILED WITH THE SERVICE:** A Listing Agreement or Property Data Form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the Property Data Form.

**Section 1.2.0. Accuracy of Listing Data: Participants and subscribers are required to submit accurate listing data and required to correct any known errors.** (Adopted 02/16/2021)

**Section 1.2.1 – LIMITED SERVICE LISTINGS:** Listing agreements under which the listing broker will not provide one, or more, of the following services:

- (a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s);
- (b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s);
- (c) advise the seller(s) as to the merits of offers to purchase;
- (d) assist the seller(s) in developing, communicating, or presenting counter-offers; or
- (e) participate on the seller(s) behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g. "LS") in the MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or the sell the property.

**Section 1.2.2 - MLS ENTRY-ONLY LISTINGS:** Listing agreements under which the listing broker will not provide **any** of the following services:

- (a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s);
- (b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s);
- (c) advise the seller(s) as to the merits of offers to purchase;
- (d) assist the seller(s) in developing, communicating, or presenting counter-offers; or
- (e) participate on the seller(s) behalf in negotiations leading to the sale of the listed property

will be identified with an appropriate code or symbol (e.g. "EO") in the MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or the sell the property.

**Section 1.3 - EXEMPTED LISTINGS:** If the seller refuses to permit the listing to be disseminated by the service, the REALTORS® may then take the listing ("office exclusive") and such listing shall be filed with the Service within three (3) business days, excluding weekends, holidays and postal holidays but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

**NOTE 1:** Section 1.3 is not required if the service does not require all listings to be submitted by a participant to the service.

**NOTE 2:** MLS Participants must distribute exempt within (1) one business day once the listing is publicly marketed. See Section 1.01 Clear Cooperation. (Adopted 02/2020)

**Section 1.4 - CHANGE OF STATUS OF LISTING:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service upon request.

**Section 1.5 - WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided notice is filed with the Service including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his exclusive relationship with the listing broker has been terminated, the Multiple Listing Service may remove the listing at the request of the seller. (Adopted 11/96)

**Section 1.6 - CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions of any term in a listing shall be specified and noted to the Participants.

**Section 1.7 - LISTING PRICE SPECIFIED:** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings unless the property is subject to auction. (Amended 11/92)

**Section 1.8 - LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the Property Data Form. When part of a listed property has been sold, proper notification should be given to the Multiple Listing Service.

**Section 1.9 - NO CONTROL OF COMMISSION RATE OR FEES CHARGED BY PARTICIPANTS:** The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and nonparticipants.

**Section 1.10 - EXPIRATION OF LISTINGS:** Listing filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. (Amended 11/01)

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the Service upon request. (Amended 11/01)

**Section 1.11 - TERMINATION DATE ON LISTINGS:** Listings filed with the Service shall bear a definite and final termination date as negotiated between the listing broker and the seller.

**Section 1.12 - Service Area:** Only listings of the designated types of property located within the service area of the Southeastern Michigan MLS are required to be submitted to the service. Listings of property located outside the Association's MLS's service area will (or will not) be accepted if submitted voluntarily by a participant, but cannot be required by the Service. (Amended 11/17)

Note: Associations must choose whether the Service will accept listings from beyond its Service area into the MLS compilations. (Amended 11/17) M

The Service area of Multiple Listing Services owned and operated by Boards and Associations of REALTORS® is not limited to the jurisdiction of the parent Board(s) or Association(s) of REALTORS®. Rather, Boards and Associations are encouraged to establish Multiple Listing Services that encompass natural market areas and to periodically reexamine such boundaries to ensure that they encompass the relevant market area. While Boards and Associations are encouraged to work cooperatively to establish market area Multiple Listing Services, the absence of such an agreement shall not preclude any Board or Association from establishing and maintaining a Multiple Listing Service whose service area exceeds that of the parent Board or Association jurisdiction. MLSs may not require other offices of a firm to participate in the MLS if any office of that firm participates in that MLS. (Revised 5/02) M

**Section 1.13 - LISTINGS OF SUSPENDED PARTICIPANTS:** When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension

became effective. If a Participant has been suspended from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, a Association MLS is not obliged to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation or current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised in writing of the intended removal so that the suspended Participant may advise his clients.

**Section 1.14 - LISTINGS OF EXPELLED PARTICIPANTS:** When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS by the expelled participant shall, at the Participant's option, be retained in the service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients.

**Section 1.15 - LISTINGS OF RESIGNED PARTICIPANTS:** When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised in writing of the intended removal so that the resigned Participant may advise his clients.

**Section 1.16 - ACTIVE LISTINGS WITH NO SHOWINGS:** A new listing may not be entered if showings are not allowed right away. If a listing is in the MLS and showings are not permitted for more than **7 days**, it must be withdrawn. **If a licensed or unlicensed person (including the property owner) shows the property during the blocked-out date(s) on ShowingTime, the brokers agent will be charged an automatic fine in the amount of \$1,000.** The only exception will be no showings per bank mandate, auction, foreclosure, redemption sale, and tenant occupied that prohibits access. The listing must be marked foreclosure "Yes" or the owner status must be marked "Owner w/ Tenant. The PUBLIC remarks must state in ALL CAPS "NO ACCESS. DO NOT DISTURB OCCUPANTS". Exterior viewing only. (Amended 08/2019)

## **Selling Procedures**

**Section 2 - SHOWINGS AND NEGOTIATIONS:** Appointments for showing and negotiations with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker except under the following circumstance:

- (a) the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- (b) after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (Amended 04/92)

**Section 2.1 - PRESENTATION OF OFFERS:** The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. (Amended 04/92)

**Section 2.2 - SUBMISSION OF WRITTEN OFFERS:** The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated. (Amended 11/05)

**Section 2.3 - RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:** The cooperating broker (subagent or buyer agent or transaction coordinator) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor's gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listings broker's right to control the establishment of appointments for such presentations. (Amended 04/92)

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, as soon as practical, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. (Adopted 11/19)

**Section 2.4 - RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFERS:** The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93)

**Section 2.5 - REPORTING SALES TO THE SERVICE:** Status changes, including final closing of sales, shall be reported to the multiple listing service by the listing broker within (120) hours after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers to the listing broker within (24) hours after occurrence and the listing broker shall report them to the MLS within (5) business days after receiving notice from the cooperating broker. (Amended 11/11)

**NOTE:** The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of sales transaction the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants. (Amended 11/01)

Note 3: As established in the Virtual Office Website ("VOW") policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records. (Adopted 11/11)

**Section 2.6 - REPORTING RESOLUTIONS OF CONTINGENCIES:** The listing broker shall report to the Multiple Listing Service within 24 hours that a contingency of file with the Multiple Listing Service has been fulfilled or renewed, or the agreement canceled.

**Section 2.7 - ADVERTISING OF LISTING FILED WITH THE SERVICE:** A listing shall not be advertised by any Participant, other than the listing broker, without the prior consent of the listing broker.

**Section 2.8 - REPORTING CANCELLATION OF PENDING SALE:** The listing broker shall report immediately to the Multiple Listing Service the cancellation of any pending sale and the listing shall be reinstated immediately.

**Section 2.9 - DISCLOSING THE EXISTENCE OF OFFERS:** Listing brokers, in response to inquiries from buyers or cooperating brokers, shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. (Amended 11/08)

**Section 2.10 - AVAILABILITY OF LISTING PROPERTY:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property. (Adopted 11/05)

### **Refusal to Sell**

**Section 3 - REFUSAL TO SELL:** If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted to the Service and to all Participants.

### **Prohibitions**

**Section 4 - INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS or Data Sharing Participant without the prior consent of the listing broker.

**Section 4.1 - "FOR SALE" SIGNS:** Only the "For Sale" sign of the listing broker may be placed on a property. (Amended 11/89)

**Section 4.2 - "SOLD" SIGNS:** Prior to closing, only the "Sold" sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. (Amended 04/96)

**Section 4.3 - SOLICITATION OF LISTING FILED WITH THE SERVICE:** Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice and its Case Interpretations.

**NOTE:** This section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This section is intended to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

This section is also intended to encourage brokers to participate in the service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the

property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

This section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.

#### **Section 4.4 - USE OF THE TERMS MLS AND MULTIPLE LISTING SERVICE:**

No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

(Adopted 11/07)

#### **Division of Commissions**

**Section 5 - COOPERATIVE COMPENSATION SPECIFIED ON EACH LISTING:** The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other Multiple Listing Service Participants for their services in the sale of such listing. Such offers are conditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease). The listing broker's obligation to compensate any cooperating broker as the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it is impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

(Amended 11/98)

In filing a property with the Multiple Listing Service with the Southeastern Border Association of REALTORS®, the Participant of the Service is making blanket unilateral offers of compensation to the other MLS Participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other MLS Participants. Specifying the compensation on each listing is necessary because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. \* (Amended 11/96)

The listing broker retains the right to determine the amount of compensation offered to other Participants (acting as subagents, buyer agents or in other agency or nonagency capacities defined by law) which may be the same or different. (Amended 11/96)

This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 07/19)

**NOTE 1:** The Association Multiple Listing Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the Association Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The Association Multiple Listing Service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

\*The compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by an Association Multiple Listing Service is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. By showing a percentage of the gross selling price.
2. By showing a definite dollar amount. (Amended 05/10)

Note: MLS may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulations. (Adopted 05/08)

**NOTE 2:** The listing broker may, from time to time, adjust the compensation offered to other Multiple Listing Service Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised. (Amended 04/92)

**NOTE 3:** The Multiple Listing Service shall make no rule on the division of commissions between Participants and non-participants. This should remain solely the responsibility of the listing broker.

**NOTE 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Amended 05/10)

**NOTE 5:** Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. (Adopted 11/05)

**NOTE 6:** Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participant to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the leader as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers. (Amended 05/09)

**Section 5.0.1 - DISCLOSING POTENTIAL SHORT SALES:** Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonable known to the listing participants.

When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.

Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within 24 hours of receipt of notification from the lender. (Adopted 05/10)

**Section 5.1 - PARTICIPANT AS PRINCIPAL:** If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Full-Service Participant has any interest in property, the listing of which is to be disseminated through the Multiple Listing Service, that person shall disclose that interest when the listing is filed with the Multiple Listing Service and such information shall be disseminated to all Multiple Listing Service Participants.

**Section 5.2 - PARTICIPANT AS PURCHASER:** If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Full-Service Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed in writing to the listing broker no later than the time an offer to purchase is submitted to the listing broker. (Adopted 02/92)

**Section 5.3 - DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS:** The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is

sold /leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client make an offer to purchase or lease. (Amended 05/01)

## **Service Charges**

**Section 6 - SERVICE FEES AND CHARGES:** The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:

- (a) **Initial Participation Fee:** An applicant for Participation in the Service shall pay an application fee of \$100.00 with such fee to accompany the application.
- (b) **Reinstatement Participation Fee:** If there is a lapse of service for any reason to any Participant for more than sixty (60) calendar days, a reinstatement fee of \$100.00 will be charged. If the lapse in service is one year or more, the former Participant will be considered a new applicant. In any and all cases, all past accounts must be brought current.

These fees may be waived through majority vote by the Multiple Listing Service Board of Directors, if petitioned.

- (c) **Annual Participation Fees:** The annual office participation fee of each Participant shall be paid in advance. Payment of such fees shall be made on or before 4:00 pm. on June 30<sup>th</sup> per each calendar year in full. Fees shall be prorated on a monthly basis for new Participants. No portion of the annual fee shall be refunded to any Participant in the event of his/her resignation or termination during the year for which the fees were paid.
- (d) **MLS only Application Fee:** An applicant for Multiple Listing Service only membership shall pay an application fee of \$100.00 with such fee to accompany the application.
- (e) **Annual Subscription Fees:** The annual Subscription fee of each subscriber shall be paid in advance. Each salesperson and licensed or certified appraiser who has access to and use of the Multiple Listing Service, whether licensed as a broker, sales licensee or licensed or certified appraiser who is employed by or affiliated as an independent contractor with a Participant is required to pay the annual Subscription Fee. Payment of such fees shall be made on or before 4:00 p.m. on June 30<sup>th</sup> per each calendar year in full. If not paid, the participant will be inactivated and a late fee in the amount of \$50.00 will be charged. Fees shall be prorated on a monthly basis for new Subscribers. No portion of the annual fee shall be refunded to any Subscriber in the event of his/her resignation or termination during the year for which the fees were paid.

There will be no waiving of subscription fees unless notification of death.

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLSs may, at their discretion, require that broker participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated. (Amended 05/2020)

## **Compliance with Rules**

### **Section 7 - COMPLIANCE WITH RULES-AUTHORITY TO IMPOSE**

**DISCIPLINE:** By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- (a) letter of warning
- (b) letter of reprimand
- (c) attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- (d) appropriate, reasonable fine not to exceed \$15,000
- (e) probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- (f) suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- (g) termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Revised 11/14)

**Note 1:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14)

**Note 2:** MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. (Adopted 02/16/2021)

**Section 7.1 - COMPLIANCE WITH RULES:** The following action may be taken for noncompliance with the Rules:

- (a) For failure to pay any service charge or fee within thirty (30) calendar days of the date due, and provided that at least ten (10) calendar days' notice has been given, the Multiple Listing Service shall be suspended until service charges and/or fees are paid in full.
- (b) For failure to comply with any other rule, the provisions of Section 9 and 9.1 shall apply.

**Section 7.2 - APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS**

**AFFILIATED WITH FULL SERVICE PARTICIPANTS:** Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any user or subscriber to abide by the Rules and/or any sanction imposed for violations thereof can subject the Full-Service Participant to the same or other discipline. This provision does not eliminate the Full-Service Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Full-Service Participant. (Adopted 04/92)

**Section 7.42 – MLS OF CHOICE:**

**Guiding Principle:** To empower REALTORS® MLSs, brokers, and agents with a modern service structure that recognizes evolving business needs in the real estate industry, provides flexibility in light of emerging technology and workplace trends, and encourages value-driven competition among MLSs.

**Prior to the Changes:** Policy utilized REALTORS® association jurisdictional boundaries as a basis for assessment of MLS fees. MLSs had discretionary authority to assess MLS fees based on all offices of a participating firm located within the territorial jurisdiction of the association (or associations) that own and operate the MLS. This policy was adopted in 2002 after several MLSs expressed concern that a rule prohibiting such assessment was overly-broad and unnecessarily restrictive of their ability to require, as a matter of local determination, participation by all branch offices within their jurisdiction.

**Affect Local Adoption:** Brokers and agents are empowered with a nimble MLS service structure that allows for innovation and competition amongst MLSs. This approach gives agents a choice in subscribing to any MLS in which their broker is a participant, and it requires MLSs to only assess Brokers a fee based on their affiliated licensees who choose to subscribe to the MLS. MLSs have the discretion to assess fees to agents affiliated with a participating office, if those agents have not subscribed to another REALTORS® MLS.

This results in a value-driven service structure that encourages competition amongst MLSs, responds to the evolving business needs and varied structures of brokerage firms, and, therefore, is in the best interest of brokers, their affiliated agents, and the MLS.

Licensees can subscribe to an MLS only if their broker is a participant.

**Section 7.43: *Section 1 Waivers of MLS Fees, Dues, and Charges (Policy Statement 7.43)***

Recurring MLS fees, dues, and charges may be based upon the total number of real estate brokers, sales licensees, and licensed or certified real estate appraisers affiliated with or employed by an MLS participant. (Amended 11/17)

**Section 7.5: Listing Assistant:** When applying for a Listing Assistant the Broker must pre-approve the application. In the month of June each calendar year the application must be resubmitted along with the \$85.00 annual fee. The assistant cannot have an active real estate license, this includes in a holding company. If at any time the Listing Assistant receives his/her real estate license the agent will contact the Broker and The Southeastern Border Association of REALTORS® within 48 hours. The agent will incur all cost, fines, and penalties for non-disclosure by the review and discretion of the MLS Board of Directors. The listing agent is fully responsible to review all listings added into the Southeastern Michigan MLS by the listing assistant and will be responsible to follow the MLS Rules and Regulation, MLS Policy and Procedures along with the MLS By Laws. (Amended 05/01/2020)

## **Meetings**

**Section 8 - MEETINGS OF MLS BOARD OF DIRECTORS:** The meetings of the Participants of the Service or the Board of Directors of the Multiple Listing Service for the transaction of business of the Service shall be held in accordance with the provisions of Article 7, Bylaws of the Service.

## **Enforcement of Rules or Disputes**

**Section 9 - CONSIDERATION OF ALLEGED VIOLATIONS:** The Board of Directors shall give consideration to all written complaints having to do with violations of the Rules and Regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Board of Directors. (Amended 05/18)

When requested by a complainant, the MLS will process a ~~compliant~~ complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. (Amended 02/16/2021)

**Section 9.1 - VIOLATIONS OF RULES AND REGULATIONS:** If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Board of Directors of the service, and if a violation is determined, the Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and Rules and Regulations of the Southeastern Border Association of REALTORS® within twenty (20) days following receipt of the Director's decision. (Amended 11/96)

If, rather than conducting an administrative review, the MLS Board of Directors of the Service has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the Board of Directors of the Southeastern Border Association of REALTORS® MLS within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the professional standards committee of the association of REALTORS® for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the association of REALTORS®. (Amended 02/98)

**Section 9.2 - COMPLAINTS OF UNETHICAL CONDUCT:** All other complaints of unethical conduct shall be referred by the Board of Directors of the Service to the Southeastern Border Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's Bylaws. (Amended 11/88)

### **Confidentiality of MLS Information**

**Section 10 - CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Full-Service Participants and those Full-Service Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Full-Service Participants. (Amended 04/92)

Any participant giving their personal password out to anyone shall be subject to a \$1,000 fine for the 1<sup>st</sup> offense, \$2,000 for the second and \$2,500 for the third offense. Said participant shall be considered inactive until levied fine is paid in full.

**Section 10.1 - MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:** The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

**Section 10.2 - ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:** Association Members who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Association Members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise provided in these Rules and Regulations.

### **Ownership of MLS Compilations\* and Copyrights**

**Section 11 -** By the act of submitting any property listing content to the Association MLS the Participant represents and warrants that he or she is fully authorized to license the property listing content contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on "Comparables." Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property. (Amended 05/18)

Each participant who submits listing contend to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from and inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. (Adopted 05/18)

**Section 11.1** - All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Southeastern Border Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the Southeastern Border Association of REALTORS®.

**Section 11.2** - Each Full-Service Participant shall be entitled to lease from the Southeastern Border Association of REALTORS® a number of copies of each MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay, for each such copy the rental fee set by the association Board. \*

Participants shall acquire by such lease only the right to use the MLS Compilation in accordance with these Rules.

### **Use of Copyrighted MLS Compilations**

**Section 12 - DISTRIBUTION:** Participants shall at all time maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Southeastern Border Association of REALTORS®. Full-Service Participants shall not distribute any such copies to persons other than subscribers who are affiliated with such Full-Service Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by an Association Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by an Association Multiple Listing Service where access to such information is prohibited by law. (Amended 04/92)

**Section 12.1 - DISPLAY:** Participants, and those persons affiliated as licensees with Full-Service Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.

**Section 12.2 - REPRODUCTION:** Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

Participants or Full-Service Participants affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable\*\* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data or properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the Full-Service Participants affiliated licensees are seeking to promote interest, does not appear on such reproduction.

Nothing contained herein shall be contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other

compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and

those licensees affiliated with the Full-Service Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations. (Amended 05/14)

\*This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listings, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

\*\*It is intended that the participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

## **Use of MLS Information**

### **Section 13 - LIMITATIONS ON USE OF MLS INFORMATION:**

Use of information from MLS compilation of current listing information, from the Association's "Statistical Report," or from any "sold" or "comparable" report of the Association or MLS for public mass-media advertising by an MLS Participant or in other public representations may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Association of its MLS must clearly demonstrate that the period of time over which such claims are based and must include the following, or substantially similar, notice:

"Based on information from the Southeastern Michigan MLS for the period (date) through (date)". (Amended 11/97)

## Changes in Rules and Regulations

**Section 14 - CHANGES IN RULES AND REGULATIONS:** Amendments to the Rules and Regulations of the Service shall be by consideration and approval of the Board of Directors of the Multiple Listing Service, in accordance with the provision of Article 10, Section B, Bylaws of the Service, subject to final approval by the Board of Directors of the Southeastern Border Association of REALTORS® (shareholder).

**Note:** Some associations may prefer to change the rules and regulations by a vote of the participants of the service, subject to approval of the Board of Directors of the service, with final approval by the Board of Directors of the Southeastern Border Association of REALTORS® which is a sole and exclusive shareholder of the stock of the service corporation.

## Arbitration of Disputes

**Section 15 – ARBITRATION OF DISPUTES:** By becoming and remaining a participant, each participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS participants in different firms arising out of their relationships as MLS participants, subject to the following qualifications.

- a. If all disputants are members of the same association of REALTORS® or have their principal place of business within the same association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that association of REALTORS®.
- b. If the disputants are members of different associations of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the MI (state association of REALTORS®). (Amended 11/97)

**Interboard Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the interboard arbitration procedures in the *Code of Ethics* and *Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®. Nothing herein shall preclude participants from agreeing to arbitrate the dispute before a particular association of REALTORS®. (Amended 11/98)

**Awards:** The obligation to arbitrate includes the duty to either 1) pay an award to the party(ies) named in the award or 2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or deposit the funds with the association within ten (10) days may be considered a violation of the MLS rules and may subject the participant to disciplinary action at the sole discretion of the MLS. (Adopted 11/15)

## Section 16 – Standards of Conduct for MLS Participants

**Standard 16.1** - MLS participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS participants have with clients. (Amended 01/04)

**Standard 16.2** - Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

**Standard 16.3** - MLS participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 01/04)

**Standard 16.4** -MLS participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS participant, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right-to-sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS participant may contact the owner to secure such information and may discuss the terms upon which the MLS participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

**Standard 16.5** - MLS participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Amended 01/98)

**Standard 16.6** - MLS participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. (Amended 11/01)

**Standard 16.7** - The fact that an agreement has been entered into with an MLS participant shall not preclude or inhibit any other MLS participant from entering into a similar agreement after the expiration of the prior agreement. (Amended 01/98)

**Standard 16.8** - The fact that a prospect has retained an MLS participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS participants from seeking such prospect's future business. (Amended 01/04)

**Standard 16.9** - MLS participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. (Amended 01/98)

**Standard 16.10** - When MLS participants are contacted by the client of another MLS participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 01/98)

**Standard 16.11** - In cooperative transactions, MLS participants shall compensate cooperating MLS participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS participants without the prior express knowledge and consent of the cooperating broker.

**Standard 16.12** - MLS participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed general for purposes of this rule. (Amended 01/04)

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another MLS participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, for sale or for rent signs, or other sources of information intended to foster cooperation with MLS participants. (Amended 01/04)

**Standard 16.13** - MLS participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 01/04)

**Standard 16.14** - MLS participants, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. (Amended 01/04)

**Standard 16.15** - On unlisted property, MLS participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 01/04)

MLS participants shall make any request for anticipated compensation from the seller/landlord at first contact.

**Standard 16.16** - MLS participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. (Amended 01/04)

**Standard 16.17** - MLS participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a multiple listing service or any other offer of cooperation may not be used to target clients of other MLS participants to whom such offers to provide services may be made. (Amended 01/04)

**Standard 16.18** - MLS participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 01/04)

**Standard 16.19** - All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client. (Amended 01/04)

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. (Adopted 01/03, Amended 01/04)

**Standard 16.20** - Participants, users, and subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude participants from

establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 01/98, Amended 01/10)

**Standard 16.21** - These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS participants involving commission, fees, compensation, or other forms of payment or expenses.

**Standard 16.22** - MLS participants shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. MLS participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner. (Amended 01/12)

**Standard 16.23** - MLS participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner. (Adopted 11/07)

**Standard 16.24** - MLS participants shall present a true picture in their advertising and representations to the public, including Internet content posted, and the URLs and domain names they use, and participants may not:

- a. engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- d. present content developed by others without either attribution or without permission;  
or
- e. otherwise mislead consumers, including use of misleading images. (Amended 01/18)

**Standard 16.25** - The services which MLS participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. (Adopted 11/09)

## **Orientation**

**Section 17 – Orientation:** Any applicant for MLS Participation and any licensee affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. (Amended 11/04)

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated additional training remotely. (Amended 11/17)

## **ADDENDUM A**

### **Section 18 – IDX Defined**

"Broker Reciprocity" is a means by which each Full-Service Participant subscribing to the program (the "Broker Reciprocity Subscriber" or "BRS") permits the display of its active/contingent listings appearing in MLS on each other BRS' Internet Web site. \*Limited Service Participates may have their listings compiled to the BRS database, but will not have access to download the program.

The "Broker Reciprocity Database" is the current aggregate compilation of all active/contingent listings of all Broker Reciprocity Subscribers except those listings where the property seller has opted out of Internet publications by so indicating on the listing contract.

A BRS may republish all or a portion of the Broker Reciprocity Database on the Internet in accordance with the following provisions and in keeping with any policies the SEBAR may adopt from time to time. Unless expressly contravened by the provision of this section, all other rules and regulations remain in full force and effect.

IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listings. (Amended 05/12)

### **Section 18.1 – AUTHORIZATION**

(OPTION #2)

Participants' consent for display of their listings by other participants pursuant to these rules and regulations must be established in writing. If a participant withholds consent on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display.

(Amended 05/12)

**Section 18.2 – PARTICIPATION:** Subscription to the SEBAR Broker Reciprocity as of March 21, 2002 All Brokers are automatically entered into the SEBAR Broker Reciprocity. You can choose to OPT OUT of the SEBAR Broker Reciprocity by completing the Drop Broker Reciprocity form provided by SEBAR.

While all Brokers are automatically entered into the SEBAR Broker Reciprocity, to display data Brokers must activate their Subscription and enter into the Contract for Access to the SEBAR Broker Reciprocity Data Feed.

(OPTION #3)

Participation in IDX is available to all MLS participants engaged in real estate brokerage who consent to display of their listings by other participants. (Amended 11/09)

An Internet republication of another BRS' listing shall contain only those fields of data designated by SEBAR for this purpose. A BRS may display fewer fields if it chooses.

**Section 18.2.1** – Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. (Amended 05/12)

**Section 18.2.2** – MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 05/12)

**Section 18.2.3** – Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. (Amended 05/17)

**Section 18.2.4** – Participants may select the listings they choose to display through IDX based only on based only on objective criteria including, but not limited to, factors such as geography or location ("uptown", "downtown", etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, or exclusive agency), or the level of service being provided by the listing firm. Selection of listing displayed through IDX site must be independently made by each participant. (Amended 05/17)

**Section 18.2.5** - Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve (12) hours. (Amended 11/14)

**Section 18.2.6** – Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 05/12)

**Section 18.2.7** – Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 05/12)

**Section 18.2.8** – Any IDX display controlled by a participant or subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by

participants. Except for the foregoing and subject to Section 16.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. (Amended 05/12)

**Section 18.2.9** – Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property

explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 05/12)

**Section 18.2.10** – An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

**Section 18.2.11** – Participants shall not modify or manipulate information relating to other participants listings. MLS participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all the available listings or fewer authorized fields. (Adopted 05/15)

**Section 18.2.12** – All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. \* (Amended 05/17)

\*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 5/17)

**Section 18.3 - DISPLAY** - The SEBAR - approved icon and an explanation that those properties marked with the icon are provided courtesy of SEBAR. Broker IDX must appear on the first page where any listing data is displayed.

**Section 18.3.1** - Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. (Amended 05/12)

The participant will be required to display frequency of update prominently.

**Section 18.3.1.1**– The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 5/12)

**Section 18.3.2** – (DELETED MAY 2015)

**Section 18.3.3** – (Deleted May 2017; moved to 18.2.12 May 2017.

**Section 18.3.4** – All listings displayed pursuant to IDX shall identify the listing agent.

**Section 18.3.5** - Non-principal brokers and sales licensee's affiliates with IDX Participants may display information available through IDX on their own websites subject to their Participant's consent and control and the requirements of state law and/or regulation.

**Section 18.3.6** – (Deleted November 2006)

**Section 18.3.7** - All listings displayed pursuant to IDX shall show the MLS as the source of the information. \*(Amended 05/17)

**Section 18.3.8** - Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumer's personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. \*(Amended 05/17)

\*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 05/17)

**Section 18.3.9** - The data consumers can retrieve or download in response to an inquire shall be determined by the MLS but in no instance shall be limited to fewer than one hundred (100) listings or five percent (5%) of the listing available for IDX display, whichever is fewer. (Amended 11/17)

**Section 18.3.10** – The right to display other participant' listings pursuant to IDX shall be limited to a participant's office(s) holding participatory rights in this MLS.

A BRS displaying the IDX or any portion thereof shall make reasonable efforts to avoid "scraping" of the data by third parties or displaying of that data on any other web site. Reasonable efforts shall include but not be limited to:

- a. Monitoring the web site for signs that a third party is "scraping data.
- b. Prominently posting notice that any use of search facilities of data on the site, other than by a consumer looking to purchase real estate, is prohibited.
- c. If a BRS suspects “scraping” of the data has occurred, the suspicion and evidence must be reported to SEBAR immediately for investigation and action.

**Section 18.3.11** – Listings obtained through IDX feeds from REALTORS® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the sources from which each such listing was obtained. \*(Amended 05/17)

\*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly

to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 05/17)

**Note:** An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Amended 11/14)

**Section 18.3.12** – Display of expired, withdrawn, and sold listings\*\* is prohibited. (Amended 11/15)

**\*\* Note:** If "sold" information is publicly accessible, display of "sold" listings may not be prohibited. (Adopted 11/14)

**Section 18.3.13** – Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and e-mail address(es) is prohibited.

**Note:** The following Sections 18.3.14 and 18.3.15 may be adopted by MLSs that provide participants with a "persistent" download (i.e., where the MLS database resides on participant's servers) of the MLS database.

**Section 18.3.14** – Participants are required to employ appropriate security protection such as firewall on their websites and displays provided that any security measures required may not be great than those employed by the MLS. (Amended 05/12)

**Section 18.3.15**- Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. (Amended 05/12)

**Section 18.3.16 - Option #2:** Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. (Adopted 11/09)

No portion of the Broker Reciprocity Database shall be co-mingled with any non-MLS listing on the BRS' Internet web site.

No portion of the Broker Reciprocity Database shall be used or provided to a third party for any purpose other than those expressly provided for in these rules.  
Any BR web site must be under the control of a single BRS.

A BRS must make changes to an Internet site necessary to cure a violation of SEBAR 's Rules within five business days of written notice from SEBAR of the violation.

Any BRS using a third party to develop/design its web site will have a written agreement with that third party in the form prescribed by SEBAR. (Amended 09/2019)

**Section 18.4 – SERVICE FEES AND CHARGES** - Service fees and charges for participation in IDX shall be established annually by the Board of Directors. (Adopted 11/01, Amended 05/05)

## **VIRTUAL OFFICE WEBSITES**

### **Section 19 – VIRTUAL OFFICE WEBSITES (VOWs)**

#### **Section 19.1 – VOW DEFINED:**

- a) A “virtual Office Website” (VOW) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b) As used in Section 18 of these rules, the term “participant” includes a participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “participant’s consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a participant.
- c) “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the right of the participant on whose behalf the AVP operates a VOW.
- d) As used in Section 18 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

#### **Section 19.2 -**

- a) The right of participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with office participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b) Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX).
- c) Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant’s VOW.

- Section 19.3 -**
- a) Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
    - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
    - ii. The Participant must obtain the name of and a valid email address for each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
    - iii. The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.
  - b) The Participant must assure that each Registrant’s password expires on a date certain but may provide for renewal of the password. The Participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The Participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant’s password.
  - c) If the MLS has reason to believe that a Participant’s VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
  - d) The Participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a “Terms of Use” provision that provides at least the following:
    - i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
    - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant’s personal, non-commercial use;
    - iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;

- iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant's consideration of the purchase or sale of an individual property;
  - v. that the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.
- e) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.
  - f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

#### **Section 19.4**

A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions, or get more information, about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

#### **Section 19.5**

A participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

#### **Note:**

MLSs may adopt rules requiring Participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.

#### **Section 19.6 -**

- a) A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.
- b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause

the seller to execute a document that includes the following (or a substantially similar) provision.

Seller Opt-Out Form

1. Please check either Option a. or Option b.

a. ☐ I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.

OR

b. ☐ I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.

2. I understand and acknowledge that, if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.

\_\_\_\_\_  
initials of seller

c) The Participant shall retain such forms for at least one year from the date they are signed, or one year from the date the listing goes off the market, whichever is greater.

**Section 19.7 -** a) Subject to subsection (b), below, a Participant's VOW may allow third-parties:

i: to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

**Section 19.8 -** A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 19.9 -** A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

**Section 19.10 -** Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

**Section 19.11 -** A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 19.12 -** A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

**Section 19.13 -** A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

**Section 19.14 -** A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant.

## **SECTION 20 - ELECTRONIC LOCK BOX ENTRY CARDS AND LOCK BOXES**

### **Section 20.1 Electronic Lock Box Entry Cards**

Electronic Lock Box Entry Cards can be obtained at the Board Office, by any MLS Participant, and every non-principal broker, sales licensee and licensed or certified appraiser affiliated with the Participant who is legally eligible for MLS access, upon signing a lease agreement and paying for entry card service.

If the lock box system is an activity of a Board-owned and operated Multiple Listing Service, then every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.

There will be a written Electronic Lock Box Entry Card Lease Agreement between the Southeastern Border Association of REALTORS® and each Participant and/or individual authorized to have an entry card to common electronic Lock Box system stipulating the responsibilities and liabilities of the parties to the agreement.

- A. An entry Card will not be issued until the Entry Card Holder has completed the mandatory SentiLock Electronic Lock Box System training, signed the lease agreement and deposits have been made to the Board Office, at which time the agreement will be signed and dated by Southeastern Border Association of REALTORS® Staff.
- B. The original agreement will be retained on file at the Southeastern Border

- Association of REALTORS® office, with one copy going to the Entry cardholder and another copy returned to the Participant.
- C. Whenever an Entry cardholder transfers from one Participant to another Participant, the Entry Card will transfer to the new Participant by virtue of the Participant's signature on the written notification of the transfer to the Board Office.

The Southeastern Border Association of REALTORS® will maintain accurate, current records as to all entry cards in inventory or issued to any authorized person. An audit will be conducted, at least annually, of all entry cards issued to authorized persons as well as those entry cards remaining in inventory.

Boards shall require substantial deposit from each key holder in an amount that will establish an awareness of personal liability for such key. The initial deposit shall not be less than \$25 not more than \$200. Deposits for a first replacement key lost or stolen shall be not less than two (2) times nor more than (3) times the amount of the initial deposit and not less than three (3) times not more than four (4) times the amount of the initial deposit for second or additional replacement keys. Deposits for keys shall be a special account for refund upon return of the key unless forfeited upon loss of the key. Notwithstanding the foregoing, deposits charged Affiliate members may be no more than twice the amounts established above.

Immediately after the loss of any entry card stolen or otherwise unaccounted for, the Entry Card Holder will be required to execute a Lost Entry Card Affidavit as to the circumstances surrounding the loss.

Listing Brokers will be required to obtain written authorization from the property owner before placing a common electronic lock box on any property.

- A. The written authorization may be included as part of the listing contract, or on a separate "Status Change" form signed by the Seller.

## **SECTION 20.2 - ELECTRONIC LOCK BOXES**

The Designated REALTORS®, an approved MLS Signatory or their appointed representative may obtain Electronic Lock Boxes from the Board Office on behalf of their real estate firm. The Designated REALTORS® will be responsible for all lock boxes issued to their office.

## **SECTION 20.3 - REPAIRS**

- A. Entry Cards or Key Boxes returned to the Board Office for repair will be replaced unless it is determined by SentiLock that the malfunction is as a result of negligence or misuse, in which case the Agent is aware that he/she will be billed for the repair at a cost not to exceed the value of the card or box. (No repair will be made if the cost exceeds the cost of the Entry card or box).
- B. The current Entry Card possessed by the Agent will not be updated until the charge is paid by the Agent.
1. Problem – key compartment will not drop.
    - a. Listing Agent will remove Key Box from listed property
    - b. Take the Key Box to the Association Office and Staff will attempt to remove the key.
    - c. If the Key cannot be removed by Staff:

1. Staff will call SentiLock to get direction as to acceptable methods for immediate Key removal, if necessary, SentiLock will replace a damaged Key Compartment if they are contacted and their directions are followed. A replacement Box will be issued to the Member Broker.
2. The Key Box will be sent to SentiLock and the Keys and the repaired Box will be returned to the Association. Staff will inform the Member when their Keys and Key Box are available for pick up.
3. Cost for shipment and repair will be paid by the Association unless damage was deemed to be caused by the Member.

Note: Key problems may be corrected by placing Velcro on the key and inside the key box to secure the key. Stiff tags and big key rings may keep the key compartment from dropping. Those tags causing problems could result in the Member being responsible for the repair/shipping cost of the Key Box. It is also suggested that each Office maintain a duplicate Key for each listing so that Boxes can be repaired at the lowest cost.

2. Problem – Key Box Shackle will not drop:
  - a. Call the Association Office for trouble shooting tips and instructions.
  - b. If staff determines that to remove the Box the shackle must be cut with bolt cutters, Member may either obtain them from the Board Office or use their own, to remove Box.
  - c. Once the Box has been removed, the Member must return the cut-off Box and Board owned bolt cutters (if used) to the Board Office.
  - d. The cut-off Box will be sent to SentiLock for repair and replacement of the shackle paid by the Association. If these guidelines are followed, a replacement Box will be issued. Any cost for repair or replacement of Boxes brought to the Association Office without following these procedures will be billed to the Member.
  - e. Boxes repaired and returned to the Association Office will be placed in Association inventory.

## **SECTION 20.4 SECURITY**

The Minimum-Security Measures for Common Lock Box Systems, as set forth in Statements 7.31 and 7.32 in the current NAR Handbook on Multiple Listing Policy shall be followed.

## **SECTION 20.5 BLUETOOTH SENTRILOCK BOXES**

- a. The Broker of record is fully responsible for all unreturned Bluetooth SentiLock boxes at cost of replacement when returning SentiLock boxes to the Southeastern Border Association of REALTORS® office.
- b. There is no cost to the Broker to lease/borrow SentiLock boxes from Southeastern Border Association of REALTORS® office. There is a cost to the assigned Broker if the assigned SentiLock boxes are lost, stolen, and or damaged.
- c. Bluetooth SentiLock Boxes are required be returned to the Southeastern Border Association of REALTORS® within 48 hours when requested by the Association.
- d. Bluetooth SentiLock boxes leased/borrowed by the Association must be assigned to a listing property.
- e. Unassigned Bluetooth SentiLock boxes must be returned to the SEBAR office within 48 hours when requested by the Association.
- f. In order for the broker to qualify to lease/borrow Bluetooth SentiLock boxes from the Southeastern Border Association of REALTORS®, the Broker must sign the Broker Bluetooth SentiLock Lease/Borrow Agreement.
- g. Lost, stolen, damaged or Bluetooth SentiLock not returned to the Southeastern Border Association of REALTORS® office within 48 hours per requested by SEBAR will be charged \$95 per Bluetooth SentiLock box. (Amended 9/2019)

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