SOUTHWEST MLS

RULES AND REGULATIONS

Southwest Multiple Listing Service, Inc.

A wholly-owned subsidiary of the
Greater Albuquerque Association of REALTORS®, Inc.

REALTOR® | MLS MULTIPLE LISTING SERVICE

EQUAL HOUSING OPPORTUNITY

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General Definitions

- **GAAR** – Greater Albuquerque Association of REALTORS®
- **Affiliate** – Affiliate Member of GAAR
- **The Service** – Southwest Multiple Listing Service, Inc.
- **Downloading** – The electronic transmission of MLS Compilations from servers managed by The Service
- **Electronic Display** – Any means of electronically transmitting listing data for public viewing
- **Participant** – REALTOR® Principal who under these Rules has qualified and joined as a Participant
- **Subscriber** – Non-Principal broker and licensee and/or appraiser affiliated with Participant who under these Rules has qualified and joined as a Subscriber
- **Service Area** – The area within which The Service functions, which area shall be at The Services discretion. (See Section 1.12)
- **The Service Compilation** – Any format in which property listing data is collected and disseminated to Participants/Subscribers
- **Filed with The Service** – Information entered into The Service compilation
- **LO/SO** – Listing Office to Selling Office

Property Type Information

- **Detached residential property** means any single-family home detached from any adjacent property and can include factory-built homes that are built to satisfy the Uniform Building Code adopted and administered in New Mexico

- **Attached residential property** means any property that is attached to the adjacent property in any manner

- **Manufactured residential property** must be legally classified as real property

- **Manufactured residential property may be verified** by a Housing and Urban Development Data Plate on the outside of the home and/or a Compliance Certificate located inside the home

Listing Status Definitions

- **Active (A)** – Available to be shown and sold now, check Showing Instructions and Remarks fields for showing and selling stipulations. Buyer sale contingency listings may be kept in Active status with LO/SO remarks stating that a Buyer sale contingency is in effect with a ____ hour contingency removal period. Contingent sales must be put in Pending Status unless a Buyer Contingency Sale is in place.

- **Coming Soon (CS):** A temporary status for listings under a valid agreement that are not yet ready for showings. Listings may remain in this status for up to 14 days and will convert to Active on day 15 if not updated by the Listing Broker. At least one photo is required. Showings, broker previews, and open houses are not permitted. Public marketing is allowed only if labeled "Coming Soon," including a “Coming Soon” rider on any public signs. In addition, listings must be entered into the MLS within one business day of any public promotion. Improper labeling or showings disqualify use of this status and may result in disciplinary action. Listings in Coming Soon may appear in IDX, syndication, and VOW feeds at the listing broker's discretion. A listing cannot return to Coming Soon until it has been Expired or Cancelled for at least 30 days. (*Amended 7/25*)

- **Active Under Contract (UC)** - An offer has been accepted but the listing is still on market, with the specific contingency to be noted. Any listings in this status must state the following at the beginning of the public remarks, "Under Contract Taking Backup Offers". Acceptable contingencies are Contingent on Lender/Bank Approval for Short Sales and REO properties, and Contingent on Corporate/Relocation approval.

- **Pending (P)** – A purchase agreement has been accepted by the Buyer and Seller to execute the sale of real property. Participant/Subscriber may not show/contact the Seller when it is in Pending status without the permission of the Listing Broker.

- **Closed (C)** – Closing has taken place.

- **Rented (R)** – A Residential Rental property that has been rented by a tenant.

- **Withdrawn (W)** – Listing is temporarily unavailable for showings but listing agreement remains in effect with the listing brokerage. Days on Market does not continue counting in Withdrawn status. Time in this status does not count towards the time a property must be off-market before it can be relisted as new.

- **Cancelled (K)** – Listing agreement has been cancelled prior to expiration date of agreement. The same Participant may only re-enter the property as a new listing if it is disclosed by placing the word “RELIST” in the LO/SO Remarks field of the listing being placed in a cancelled status. Listings may not be cancelled and relisted to manipulate days on market.

- **Expired (X)** – Listing agreement has expired.

MLS Definitions

- **Bedroom** - Must have at minimum a door, at least one other form of egress to the outside of the building, and 70 sq ft minimum, square footage with a ceiling height less than 5 feet does not count towards this minimum (closet not required)

Section 1: Listing Procedures Section

Section 1.0 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 Service Area, and are taken by Participants shall be Filed with The Service within 48 hours ~~after all necessary signatures of Seller(s) have been obtained. (Amended 11/01)~~ or seller's directive as per listing agreement: *(Amended 2/26)*

- single-family detached, attached, or manufactured homes for sale or exchange
- vacant lots and acreage for sale or exchange
- two-family, three-family, and four-family residential buildings for sale or exchange

Note 1: The Service shall not require a 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 Service. However, The Service, through its legal counsel:

- may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants
- assure that no listing form filed with The Service establishes, directly or indirectly, any contractual relationship between The Service and the client (Buyer or Seller)

The 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 cooperate with other Participants of The Service acting as transaction brokers, Buyer agents, or both. (Amended 08/24)

The listing agreement must include the Seller's written authorization to submit the agreement to The Service. *(Amended 11/96)*

The different types of listing agreements include:

- exclusive right-to-sell
- open
- exclusive agency
- 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 contrary to Cooperation. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in
the best interests of their clients. *(Amended 08/24)*

The **exclusive right-to-sell** listing is the form of listing where the Seller authorizes exclusive authority to the listing broker to cooperate with other brokers in the sale of the property. *(Amended 4/92)*

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to cooperate with other brokers in the sale of the property, 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 8/24)*

Note 2: A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The 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 members free to accept such listings to be handled outside The Service.

Note 3: A multiple listing service may, as a matter of local option, 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 Service compilation of current listings. *(Adopted 11/92)*

Section 1.1 Types of Properties

Following are some of the types of properties that may be published through The Service, including types described in Section 1 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: *(Amended 11/91)*

- detached residential for sale
- attached residential for sale
- manufactured residential for sale
- vacant land
- residential income
- commercial sale
- commercial lease
- farm and ranch
- residential for rent

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 11/19)

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.

Section 1.1.1 Listing Subject to Rules and Regulations of The Service

Any listing taken on a contract to be filed with The 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 Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the appropriate data input 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.

Section 1.2.1 Limited-Service Listings

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- 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)
- 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)

- advise the Seller(s) as to the merits of offers to purchase
- assist the Seller(s) in developing, communicating, or presenting counteroffers
- participate on the Seller's(s') behalf in negotiations leading to the sale of the listed property

will be identified with an appropriate code or symbol (LS) in 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 sell the property. *(Adopted 5/01)*

Section 1.2.2 MLS Entry-only Listings

Listing agreements under which the listing broker will not provide any of the following services:

- 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)
- 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)
- advise the Seller(s) as to the merits of offers to purchase
- assist the Seller(s) in developing, communicating, or presenting counteroffers
- participate on the Seller's(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 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 sell the property.

Section 1.2.3 Auction Listings

Listings that are subject to auction must meet the following minimum requirements:

- A valid listing agreement must exist
- A list price must be entered (starting bid is OK)
- Some degree of brokerage relationship must be in place for the duration of time the listing is on MLS

Section 1.3 Multiple Listing Options for Sellers

Office Exclusive: Where the Seller has directed the listing broker (Participant) to not publicly market their property and to not disseminate it through the MLS to other MLS

Participants and Subscribers, the Participant may then take the listing as an office exclusive exempt listing and such listing shall be filed with the MLS, subject to its local filing rules, but not disseminated to other MLS Participants and Subscribers.

Note: MLS Participants must distribute Office Exclusive exempt listings through the MLS to other MLS Participants and Subscribers within (1) one business day after the listing has been publicly marketed. See Section 1.01 Clear Cooperation.

Delayed IDX/Syndication (NAR's Delayed Marketing): Where the seller has directed the listing broker to delay the public marketing of their property through IDX and syndication for an unlimited time period. A Delayed IDX/Syndication exempt listing shall be filed with the MLS, subject to its local filing rules, and disseminated to other MLS Participants and Subscribers. The listing broker shall not be precluded from marketing the Delayed IDX/Syndication listing in a matter consistent with the seller's choice by written instruction.

SWMLS Listing Disclosure: The filing of all listings, including Active and Coming Soon, and exempt listings (Office Exclusive or Delayed IDX/Syndication) with the MLS must be pursuant to a certification, signed by the seller, obtained by the listing broker which includes:

- disclosure about the professional relationship between the Participant and the seller;
- acknowledgement that the seller understands the MLS benefits they are waiving or delaying with the exempt listing, such as broad and immediate exposure of their listing through the MLS; and
- confirmation of the seller's decision that their listing not be publicly marketed and disseminated by the MLS to other MLS Participants and Subscribers as an office exclusive listing or that their listing will not have immediate public marketing through IDX and Syndication as a Delayed IDX/Syndication listing.

Multiple Listing Options for Sellers requirements ony apply to listing types that are subject to mandatory submission pursuant to the MLS local rules. *(Amended 7/25)*

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 within forty-eight (48) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.

Section 1.5 Withdrawal of Listing Prior to Expiration

Listings of property may be withdrawn from The 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 The Service 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 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 noticed 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 Service's 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 Service within forty-eight (48) hours (excepting weekends, holidays, and postal holidays).

Section 1.9 No Control of Commission Rates or Fees Charged to Participants

The Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, The Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-Participants.

Section 1.10 Expiration of Listings

Listings filed with The 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 Service 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. *(Amended 11/01)*

Section 1.11 Expiration Date on Listings

Listings Filed with The Service shall bear a definite and final expiration 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 are required to be submitted to the service. The mandatory service area is defined as Bernalillo, Sandoval, Valencia, Torrance, and Santa Fe counties within the defined SWMLS Areas. Listings of property located outside The MLS's service area but within the State of New Mexico will be accepted if submitted voluntarily by a Participant, but cannot be required by the service. *(Amended 11/17)*

Section 1.13 Listing of Suspended Participants

When a Participant of The Service is suspended from The Service for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, The Service bylaws, The Service rules and regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with The Service 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 Service beyond the expiration date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the association (except where The Service participation without association membership is permitted by law) or The Service (or both) for failure to pay appropriate dues, fees, or charges, an association The Service is not obligated to provide services, including continued inclusion of the suspended Participant's listings in The Service compilation of current listing information. Prior to any removal of a suspended Participant's listings from The Service, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

Section 1.14 Listing of Expelled Participants

When a Participant of The Service is expelled from The Service 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 Service 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 Service beyond the expiration date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the association (except where The Service participation without association membership is permitted by law) or The Service (or both) for failure to pay appropriate dues, fees, or charges, The Service is not obligated to provide services, including continued inclusion of the

expelled Participant's listings in The Service compilation of current listing information. Prior to any removal of an expelled Participant's listings from The Service, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients.

Section 1.15 Listing of Resigned Participants

A Participant may resign from The Service provided that he submits his request in writing and brings current all financial accounts with The Service. Resignation shall become effective forty-eight (48) hours from receipt of written notification to The Service, at which time all services shall be terminated. Active, Pending, and Withdrawn listings of the resigned Participant shall have their status changed to Cancelled.

Section 1.16 Listing of Inactive Participants

A Participant may request inactive status from The Service for a period not to exceed one (1) year. He must submit his request in writing and bring current all financial accounts with The Service. Inactive status is effective forty-eight (48) hours from written notification to The Service, at which time all services shall be terminated. All Active, Pending, and Withdrawn listings of the inactive Participant shall have their status changed to Cancelled. An inactive Participant may return to active status upon written request at any time prior to the expiration of the inactive period.

Section 1.17 Contact Information in Publicly Accessible Data

The only verbiage allowed in the Property-specific Remarks is property-specific information. No other information is authorized; e.g., no internet links, brokerage or broker advertisements, personal/company promotions or contact information including but not limited to telephone numbers, email addresses, and websites.

No brokerage or broker contact information is allowed in any publicly accessible field, or media except for non-brokerage company information for copyright attribution, and fields intended for contact information.

Section 1.17.1 Offer Deadlines in Public Remarks

Offer Deadlines should only be included in LO/SO remarks and are prohibited in Public Remarks. *(Added 08/23)*

Section 1.18 Addenda

Any document filed with The Service must be property-specific or relating to brokerage responsibilities.

Section 1.18.1 Lead-Based Paint Disclosure

Lead-Based Paint Disclosure must be uploaded to MLS within 24 hours on any listing that indicates Lead-Based Paint disclosure is required, except where Seller(s) expressly direct that such disclosure documents not be disseminated through the MLS.

Section 1.18.2 Public Improvement District Disclosure

Public Improvement District (PID) Disclosure (Notice of Information) must be uploaded to MLS within 24 hours on any listing that indicates that the listing is located within a PID, except where Seller(s) expressly direct that such disclosure documents not be disseminated through the MLS.

Section 1.18.3 Tax Levy Disclosure

County assessor provided Tax Levy Disclosure must be uploaded to MLS within 24 hours on all Residential and Residential Income listings, based on the current list price, except where Seller(s) expressly direct that such disclosure documents not be disseminated through the MLS.

Section 1.19 Virtual Media

The Virtual Media field on the data input form shall only contain a URL link directly to the Virtual Media for that specific property listing. Virtual Media is defined as a 360-degree tour of a property, video of the property, or a slide show of static pictures. Virtual Media shall not contain internet links, advertisements, personal/company promotions or contact information.

Section 1.20 Photos

The listing Participant or Subscriber shall load at least one digital image of each property listed in the MLS within 48 hours of entering Active status except where Seller(s) expressly direct that photographs of their property not appear in MLS compilations in the listing agreement. Residential Resale listings are subject to Minimum Photos requirements outlined in 1.20.1 and must also be uploaded within 48 hours. Digital images submitted to MLS shall only contain photos pertinent to the listed property, floor plans of the listed property, renderings of the listed property, or plat maps. If the listed property is vacant land at least one image must be of the street view of the lot. The required image for Vacant Land can also be a satellite image or birds eye view of the lot if the land is not accessible by roadway. Digital images shall not contain contact information such as names, phone numbers, email addresses or web site addresses, including use of embedded, overlaid, or digitally stamped information, except for the listing Participant's yard sign provided that such yard sign may only be incidental to and a small portion of the digital image, and any contact information is

not readable. **Any photo submitted to The Service is subject to rejection based on the above criteria.**

Section 1.20.1 – Minimum Photos

For all residential resale listings, requirement of a minimum of one photo of the living room, kitchen, bathrooms based on number, exterior front and backyard. Exception if property is tenant occupied, substandard, or at the Seller request per listing agreement.

Section 1.21 Days on Market Manipulation

If a listing is entered with the same office MLS ID within 30 days, then the new listing agreement must be provided to SWMLS Staff to verify that it is truly a new listing and not attempting to manipulate data.

Section 1.22 Property Addresses

At the time of filing a listing, Participants and Subscribers must include a property address available to other Participants and Subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location.

Section 1.23 Transferring Listings between Brokerages

For a listing to change from one brokerage to another, SWMLS Staff may accept written permission from the releasing Participant (aka Qualifying Broker/Designated REALTOR)
in the form of an email, to be filed with other Listing Change emails. When the transfer is completed, the accepting Participant will also be notified *(Added 08/23)*

Section 1.24 Staff Changes to Listings

If staff becomes aware of contact information in Public Remarks in violation of Section 1.17, they are authorized to remove the prohibited information from the listing immediately with notice to the Listing Broker and/or Qualifying Broker. *(Added 08/23)*

SWMLS staff has the authority to fix obvious typos they come across with notification to the listing broker that the change was made for these specific situations:

- Parcel ID not in correct format
- Address misspelled
- Obvious Date Errors (Estimated Close Date of 09/31/21 entered on 09/01/22)
- Incorrect Area (assuming pin location is verified as correct)
- List price of $250k, Sold price of 2.5 million.

In situations where a property is listed in multiple property types, allow staff to DELETE the listing, with written permission from the Listing Broker. *(Added 08/23)*

Section 1.25 – Fair Housing

Southwest MLS is committed to compliance with all federal, state, and local fair housing laws, and will not be a forum for discrimination against any person based on race, color, religion, gender (sex), disability (handicap), familial status, national origin, sexual orientation or gender identity. In all listings, members are required to describe the property not the people. Members will be notified when words are identified that could be potential violations of Fair Housing laws, advising participants and subscribers to remove or correct potential violations.

Section 2: Selling Procedures

Section 2.0 Showings and Negotiations

Appointments for showings and negotiations with the Seller for the purchase of listed property filed with The Service shall be conducted through the listing broker, except under the following circumstances:

- the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- 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 4/92)*
- A Participant/Subscriber shall enter his name, company name, date and time of showing on a sign-in sheet at the property or may leave a business card.

Section 2.0.1 Showing Instructions

Listing brokers shall provide showing procedures, instructions and restrictions within applicable fields of the MLS. Participants and Subscribers shall follow instructions as specified by the listing broker. Participants and Subscribers may communicate with the listing broker to discuss and agree upon showing methods other than what has been entered for the listing.

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 4/92)*

Section 2.2 Submission of Written Offers and Counteroffers

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 counteroffers 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 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 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 or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations. *(Amended 4/92)*

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 Counteroffer

The listing broker or his representative has the right to participate in the presentation of any counteroffer made by the Seller or lessor. He does not have the right to be present at any discussion or evaluation of a counteroffer by the purchaser or lessee. However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counteroffer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. *(Adopted 11/93)*

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, 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. *(Amended 8/18)*

Section 2.5 Reporting Status Changes to The Service

Status changes, including final closing of sales and sales prices, shall be reported to The Service by the listing broker within forty-eight (48) hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within forty-eight (48) hours after occurrence and the listing broker shall report them to The Service within forty-eight (48) hours after receiving notice from the cooperating broker. *(Amended 11/11) (Revised March 2012)*

Note 1: The listing agreement of a property filed with The Service by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with The Service; to provide timely notice of status changes of the listing to The Service; and to provide sales information including selling price to The Service upon sale of the property. If deemed desirable by The Service to publish sales information prior to final closing (settlement) of a 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 Service to its Participants. *(Amended 11/01)*

Note 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS. (*Note 2 was adopted in March 2012)*

In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the MLS:

- Categorizes sale price information as confidential and
- Limits use of sale price information to Participants and Subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provide below.

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to Participants and Subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing Participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the Seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. (*Adopted 11/11*)

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 Resolution of Contingencies

The listing broker shall report to The Service within twenty-four (24) hours that a contingency on file with The Service has been fulfilled or renewed, or the agreement cancelled.

Section 2.7 Advertising of Listings Filed with The Service

Prior to closing a listing shall not be advertised by any Participant other than the listing broker without the prior consent of the listing broker. After closing the cooperating broker may advertise that he participated in the sale of the property.

Section 2.8 Reporting Cancellation of Pending Sale

The listing broker shall report immediately to The Service the cancellation of any pending sale, and the listing shall be reinstated immediately.

Section 2.9a Reporting Sales of Listing Required to be Submitted to the Service

The Listing Participant shall provide to the Service sales information, including the sales price and the closing date, for all listings required to be filed with the Service, whether or not such listing is Withdrawn prior to the closing date. This requirement shall terminate upon the termination of a listing agreement, unless the Listing Participant receives compensation for the sale of the listed property.

Section 2.9b Reporting Sales of Listing Not Required to be Submitted to the Service

A selling Participant is encouraged to report the sale of listings that are not required to be submitted to The Service. Written permission of both the Buyer and Seller must be obtained prior to reporting these sales to The Service.

Section 2.10 Availability of Listed Property

Listing brokers shall not misrepresent the availability of access to show or inspect listed property. *(Adopted 11/05)*

Section 3: Refusal to Sell

Section 3 Refusal to Sell

If the Seller of any listed property filed with The Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, the listing Participant shall transmit such fact immediately to The Service.

Section 4: Prohibitions

Section 4.0 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 Service 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 4/96)*

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 email 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)*

Section 4.5 Services Advertised as "Free"

MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. *(Amended 11/21)*

Section 4.6 No Filtering of Listings

Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. *(Adopted 11/24)*

Section 5: No Compensation Specified on MLS Listings

Section 5.0 No Compensation Specified on MLS Listings

Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.

Note 1: The Service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and The Service shall not publish the total negotiated commission on a listing which has been submitted to The Service by a Participant. The Service must prohibit disclosing in any way the total commission negotiated between the Seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).

Note 2: The 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 3: 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. 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.

Section 5.0.0 Required Consumer Disclosure

Disclosures of Compensation: MLS Participants and Subscribers must:

1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).

2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate

attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. *(Adopted 11/24)*

Section 5.0.1 Disclosing Potential Short Sales

Alternatively, multiple listing services that require participants to disclose potential short sales should adopt the following rule.
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 reasonably known to the listing participants. *(Amended 8/24)*

Section 5.0.2 Written Buyer Agreement

Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

a. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source;
b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.
c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable. *(Adopted 08/24)*

Section 5.0.3 Compliance with Rules on Written Agreements

The Service shall have the authority to request any written agreement from its Participants and Subscribers upon receiving a formal complaint. Participants must furnish the requested documents within 1 business day, allowing The Service time to assess the validity of the complaint and take any necessary corrective actions. The Service may conduct a review to verify adherence to applicable rules and ethical guidelines. This policy reinforces the integrity of the marketplace and ensures that all transactions align with the professional practices and regulatory requirements.

Section 5.1 Participant as Principal

If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any ownership interest in a property, the listing of which is to be disseminated through The Service, that person shall disclose that interest when the listing is filed with The Service and such information shall be disseminated to all multiple listing service Participants.

Section 5.2 Participant as Buyer

If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker. *(Adopted 2/92)*

Section 6: Service Fees and Charges

The following services 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:

Initial Participation Fee: An applicant for participation in the service shall pay an application fee of $522.45 with such fee to accompany the application.

Note: The initial participation fee shall approximate the cost of bringing the service to the Participant.

Recurring Participation Fee: The annual participation fee of each Participant shall be an amount equal to $522.45 times each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. Payment of such fees shall be made on or before the first day of the fiscal year of the multiple listing service. Fees shall be prorated on a monthly basis

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.

Tribunal Preparation Fees

When a Compliance Tribunal is scheduled pursuant to Section 9 of these Rules and Regulations, the Participant or Subscriber subject to the Tribunal shall be assessed a **non-refundable Tribunal Preparation Fee in the amount of $250, due upfront upon notice of scheduling**.

This fee is an administrative cost-recovery charge intended to offset staff time, materials, and operations expenses associated with the preparation of Tribunal packets, notices and related documentation.

The Tribunal Fee:
· is administrative in nature and not a disciplinary sanction;
· is separate from and in addition to any fines, sanctions, or discipline imposed pursuant to Section 7;
· shall not be considered by the Tribunal Panel in determining findings or disciplines.

Extraordinary Preparation Fee

Matters involving ten (10) or more sanctions result in unusually high volume, complexity, and/or administrative burden. SWMLS may recover documented Tribunal preparation costs exceeding the flat fee equal to 15% of the total sanctions assessed.

Any additional recovery shall remain administrative in nature and shall not constitute discipline.

Tribunal Preparation and Extraordinary Preparation Fees (if applicable) are nonrefundable and billed and payable at the time of Notice of Tribunal, and shall be handled in accordance with Section 4.7 of the SWMLS Billing and Cancellation Policy. Failure to remit payment by the 15th of the following month shall not automatically delay, postpone, or otherwise affect the scheduling or conduct of the Tribunal and shall result in suspension. Failure to pay by the 20th day of the following month shall result in termination from SWMLS. *(Adopted 2/26)*

Section 7: Compliance with Rules

Section 7.0 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 Service governance provision. The Service may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other Service governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- letter of warning
- letter of reprimand
- attendance at Service orientation or other appropriate courses or seminars which the Participant or Subscriber can reasonably attend taking into consideration cost, location, and duration
- appropriate, reasonable fine not to exceed $15,000
- suspension of Service rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- termination of Service 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 fulfilment. 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 11/20)*

Section 7.1 Compliance with Rules

For failure to comply with any rule not pertaining to payment of service charges or fees, the provisions of Sections 9 and 9.1 shall apply. *(Amended 11/88)*

Section 7.2 Applicability of Rules to Users and/or Subscribers

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by The Service 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 The Service 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 Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or Subscribers affiliated with the Participant. *(Adopted 4/92)*

Section 8: Accuracy of Data

All information Filed in The Service must be as accurate as possible and any discrepancies shall be reviewed by the Board of Directors of The Service, The Service's Compliance Committee or their designee as a possible violation of these Rules and Regulations. The listing Participant has an affirmative obligation to verify that all information Filed with The Service is accurate. The Listing Participant shall provide written documentation, to include any written agreement, to verify data or ensure compliance with the rules set forth herein, upon request by the Board of Directors of The Service, The Service's Compliance Committee or their designee. The Service may correct inaccurate data with written authorization of the listing Participant.

Section 9: Enforcement of Rules or Disputes

Section 9 Considerations of Alleged Violations

The Board of Directors of The Service, The Service's Compliance Committee or their designee 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 Committee (Board of Directors). (Amended 8/18)*

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. The Participant shall be allowed to choose a primary and alternate representative from the non-hearing subpanel to represent them in the hearing. Panel members may recuse themselves from serving as an appointed representative. *(Amended 9/25)*

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 policies and procedures of GAAR within twenty (20) days following receipt of the directors' decision.
(Amended 11/96)

If, rather than conducting an administrative review, the MLS 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 MLS within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the professional standards committee of GAAR for processing in accordance with the policies and procedures of GAAR. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of GAAR. *(Amended 2/98)*

Section 9.1.1 MLS Procedure to Impose Sanctions

Upon receipt in any form of a possible violation of The Service Rules and Regulations or when violations are discovered through monitoring, Service staff may request that a Participant or Subscriber comply with Rules within forty-eight (48) hours. If a Participant or Subscriber does not comply with the Rules and Regulations, within forty-eight (48) hours after a notice of violation or for violations that are not capable of being cured, the Participant/Subscriber will be subject to the appropriate fine. Service Staff shall not have the authority to waive or modify fines, but Staff shall have the authority to grant reasonable extensions of time in which to comply so long as the Participant/Subscriber requests such extension within the forty-eight (48) hour period after a notice of violation.

If staff becomes aware of contact information in Public Remarks in violation of Section 1.17, they are authorized to remove the prohibited information from the listing immediately with notice to the Listing Broker and/or Qualifying Broker.

Violations of Section 1.01 (Clear Cooperation) must be resolved with (1) business day upon receiving a violation notice from The Service.

For violations of Sections 1 (except 1.01), 2, 3, or 8 of these Rules and Regulations (Minor Violations) the Compliance Committee, Board of Directors of The Service, or Service Staff may levy a fine against the Participant or Subscriber as outlined below:

- First fine within a 12-month period will be assessed at $50 (fine can be replaced with attendance at an MLS Rules Refresher Class at the option of the Participant of Subscriber) See Section 9.1.1.A.
- Second fine for the same violation on the same listing will be assessed at $100
- Third fine for the same violation on the same listing will be assessed at $200
- If the agent received a fine within a 12-month period of the first fine for the same violation on a different listing, the fine structure will be $100/$200/$400
- When a Participant or Subscriber incurs a 4th and subsequent fines in a calendar year under these Sections, a tribunal of at least three or five members of the Compliance Committee of The Service will hold a hearing in which the Subscriber and Participant must attend, and may either (i) provide a warning to the Participant or Subscriber or (ii) levy a fine against the Participant or Subscriber as outlined in Section 7.

For violations of Sections 1.01 of these Rules and Regulations the Compliance Committee, Board of Directors of The Service, or Service Staff may levy a fine against the Participant or Subscriber as outlined below:

- First offense $500; second offense $1000; third offense $5000 and loss of MLS privileges for 30 days.
- Note: This is an overall total beginning from September 1st, 2021 and does not reset.

When a fine has been issued for a Minor Violation and Participant or Subscriber does not correct the violation in the time provided in the fine notice, The Service may double the fine. If there is no response within the time provided in the double fine notice, The Service may quadruple the fine. If a violation remains uncorrected after a notice of quadruple fine, the Compliance Committee may require the Participant and Subscriber attend an MLS Rules Refresher Class within 60 days. If a violation remains uncorrected after a notice of quadruple fines, the Compliance Committee may authorize that the Participant or Subscriber have their MLS account disabled until the violation is corrected. The Participant or Subscriber account would only be disabled if there is still a valid Participant at the office who could continue to operate the office and maintain office listings. If the issue remains unsolved, the Compliance Committee shall refer the matter to the Board of Directors, and a tribunal of at least 3 or 5 members of the Board of Directors of The Service may levy additional punishment against the Participant or Subscriber, including, but not limited to suspending all services of the Participant and/or Subscriber for a specified period of time. Fines remaining unpaid after the appropriate notice shall be subject to the Collections Policy of The Service.

For violations of Sections 4 (excluding Section 4.4), 5, 13, 18, or 19 of these Rules and Regulations (Major Violations), or if the Participant or Subscriber has received 3 administrative sanctions, a tribunal of at least three or five members of the Compliance Committee of The Service may either (i) provide a warning to the Participant or Subscriber or (ii) levy a fine against the Participant or Subscriber as outlined below after a majority vote approving the sanction:

- First fine within a 12-month period will be assessed at $250
- Second fine within a 12-month period will be assessed at $500
- Third fine and all subsequent fines within a 12-month period will be assessed at $750
- When the Participant or Subscriber receives a 3rd or subsequent administrative sanctions, the tribunal will hold a hearing in which the Subscriber and Participant must attend and may impose discipline as provided in Section 7.

For violations of Sections 4.4, 10, or 12 of these Rules and Regulations (Willful Misuse Violations), or if the Participant or Subscriber has received 3 administrative sanctions, a tribunal of at least three or five members of the Compliance Committee may either (i) provide a warning to the Participant or Subscriber or (ii) levy a fine against the Participant or Subscriber as outlined below after a majority vote approving the sanction:

- Fine of $1,000 will be assessed for violations of Section 4.4 to first-time violators of Section 4.4
- Fine of $5,000 will be assessed for violations of Section 4.4 after the first violation.
- Fine of $5,000 will be assessed for violations of Section 10
- Fine of $5,000 will be assessed for violations of Section 12

- When the Participant or Subscriber receives a 3rd or subsequent administrative sanctions, the tribunal will hold a hearing in which the Subscriber and Participant must attend and may impose discipline as provided in Section 7.

In addition to or in lieu of the fines described above the Compliance Committee upon a majority vote can send any violation to the Board of Directors of The Service with a recommendation for suspension of services to the Participant/Subscriber. A tribunal of the at least 3 or 5 members of the Board of Directors of The Service, either upon a recommendation from the Compliance Committee or on its own motion, may suspend all services of the Participant and/or the Subscriber for a specified period of time (no less than 30 days) depending upon the severity of the violation, but not to exceed one year.

There is a $250 immediate fine per listing for each offense of unauthorized copying of photos as reported by the listing broker or copyright holder.

Section 9.1.1.A. Rules Refresher Class as Alternative Resolution of First Compliance Fine

1. Availability of Rules Refresher Option

• For Minor Violations eligible under Rule Section 9.1.1, the Participant or Subscriber may elect to resolve a first $50 fine by attending the SWMLS Rules Refresher class.
• This option is available once in a calendar year.

2. Required Election, Approval, and Registration

• Election of the Rules Refresher option is not automatic.
• The Participant or Subscriber must:
    1. Request approval in writing from the Compliance Department, and
    2. Receive written confirmation of eligibility, and
    3. Register for an approved Rules Refresher class, and
    4. Send written confirmation of class registration to compliance@swmls.com.
• All four steps must be completed no later than ten (10) calendar days following the date of the fine.

3. Effect on Billing and Collection

• Upon timely approval and registration:
    1. The compliance fine will be placed in "Rules Refresher Pending" status.
    2. Billing will not suspend or terminate services under Policy 4.7 while the Participant or Subscriber remains eligible and within the completion window.
• If approval, registration, and confirmation are not completed within ten (10) calendar days following the date of the fine, the fine proceeds immediately under the Billing and Collection Policy without exception.

4. Class Completion Requirement

• The approved Rules Refresher class must be completed within thirty (30) days of the fine date.
• SWMLS offers Rules Refresher classes on a recurring basis, typically every other week, including both virtual and in-person options, to ensure reasonable access within this timeframe.
• Participant or Subscriber must send the Certificate of Completion to compliance@swmls.com as proof of completion within the 30-day period.

5. Failure to Complete

If the class is not completed and the Certificate of Completion is not sent to compliance@swmls.com within the 30-day period:

1. The alternative resolution option is forfeited.
2. The fine returns to standard billing status effective the next business day.
3. Billing actions resume in accordance with Policy 4.7.

6. Relationship to Hearings

· Election of the Rules Refresher class constitutes acceptance of the fine and waive the right to request a hearing under Section 9.1.2.

· A Participant or Subscriber who wishes to challenges the fine must request a hearing within ten (10) calendar days from the date of the fine and may not simultaneously elect the Rules Refresher option.

7. Staff Authority

SWMLS staff do not have the authority to:
· Approve Rules Refresher requests after the 15th of the following month
· Extend the 30-day completion deadline, or
· Retroactively prevent billing actions once Policy 4.7 timelines have been initiated.

Section 9.1.2 Procedure to Conduct Hearings

A Participant or Subscriber may request a hearing to challenge any fine or sanction they are assessed. All requests for hearing must be filed in writing within twenty (20) days of receiving notice of fine or sanction. Requests may be mailed to SWMLS at 1635 University Blvd, Albuquerque, NM, 87102 or may be sent via email to compliance@swmls.com. The hearing request must be made using the SWMLS Violation and Sanction Hearing Request Form and must provide a detailed explanation (including any supporting documentation) on why the Subscriber or Participant feels that the fine or sanction should not be assessed. Hearings of fines or sanctions resulting from Minor Violations levied by Staff will be heard by a quorum of the Compliance Committee. All other requests for hearing will be heard by a tribunal of at least three or five members of the Compliance Committee, not including any member who levied the initial fine or sanction. All hearings will be conducted following the policies and procedures of GAAR.

Following the initial hearing Participant or Subscriber may:

- Accept the decision of the hearing panel
- Request a rehearing (must be done within 20 days after hearing). Rehearing petition may be based only on new evidence that could not have been discovered within reasonable diligence prior to the original hearing. The request must be in writing and include (1) a summary of the new evidence, (2) a statement of what the new evidence is intended to show and how it might affect the hearing Panel's decision, and (3) an explanation of why the petitioner could not have discovered and/or produced the evidence at the time of the original hearing. The Chair of the Compliance Committee will consider and grant or deny a request for rehearing. Their decision will be forwarded to the Participant within 5 business days of decision. Only one petition for rehearing is permitted in reference to any one alleged violation,
- Participant may appeal decisions of the hearing panel to the Board of Directors of the Service. Such an appeal must be initiated in writing within 20 days after the hearing panel decision is mailed (or 10 days after rehearing request is denied) and be accompanied by a $250 fee. Appeal may be heard by a tribunal of at least three or five members of the Board of Directors of the Service within thirty (30) days from receipt of request for appeal.

Participants and Subscribers, as applicable, will be given notice of the date and time for all hearings. Participant must attend, Subscriber may attend appeal to present his/her case and answer questions. Participant has a right to challenge any member of the hearing panel. Participant will be sent names of panel members with notice of hearing date and will have a minimum of 10 days to challenge any names on the panel. If a reason is deemed sufficient to support a challenge by the chair of the applicable panel or other panel member if the chair is being challenged, the individual challenged will be excused from the hearing panel.

Section 9.1.3 Action on Hearing

The Compliance Committee or the Board of Directors sitting as a hearing panel, upon hearing, may

- affirm the violation as issued, including the fine and discipline
- modify the fine and/or the discipline
- remand to the Compliance Committee or Staff, as applicable, for further consideration of fine and/or discipline
- remand to Staff or the Compliance Committee, as applicable, for new action based on procedural deficiencies
- dismiss matter.

Section 9.1.4 Ratification of Compliance Committee Decisions

After all rehearing and appeal deadlines have passed, the Board of Directors shall take action to ratify each decision of the Compliance Committee. If the Board of Directors determines not to ratify any decision of the Compliance Committee, the Board of Directors may reduce the fine and/or discipline but may not increase either.

Section 9.1.5 Confidentiality of Compliance Issues

All compliance issues are confidential, and Participants, Subscribers, Compliance Committee and Board of Directors shall maintain confidentiality related to such issues brought before them.

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 GAAR for appropriate action in accordance with the professional standards procedures established in the GAAR bylaws. *(Amended 11/88)*

Section 9.3 Complaints of Unauthorized Use of Listing Content

Any Participant who believes another Participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No Participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the committee (Board of Directors) will send the notice to the Participant who is accused of unauthorized use. Within ten (10) days from receipt, the Participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the committee (Board of Directors) that the use is authorized. Any proof submitted will be considered by the Committee (Board of Directors), and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee (Board of Directors) determines that the use of the content was unauthorized, the Committee (Board of Directors) may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e., the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

Section 9.4 MLS Rules Violations

MLS Participants may not take legal action against another Participant for alleged rules violation(s) unless the complaining Participant has first exhausted the remedies provided in these rules.

Section 9.5 Confidentiality of Compliance Committee Deliberations

All matters and discussions held by the Compliance Committee, Board of Directors of The Service, or staff in relation to alleged violations of Service Rules and Regulations are confidential and shall not be discussed with anyone, except legal counsel, Realtor counsel®, the state association staff and NAR staff, as necessary. Case studies based on compliance issues may be disseminated to Participants/Subscribers for educational purposes.

Section 10: Confidentiality of MLS Information

Section 10.0 Confidentiality of MLS Information

Any information provided by The 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 Participants, those 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 Participants, and by The Service as provided in these Rules and Regulations. *(Amended 4/92)*

Section 10.1 The Service Responsibility 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 indemnify, defend, and hold The Service and any other party to whom the Service provides such information 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

GAAR members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in The Service, 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 Service, including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of GAAR members and individuals affiliated with GAAR 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.

Section 10.3 Dissemination of Data

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. If use of a Compilation is authorized by The Service, a custom data format may be provided.

Section 10.4 Limitation on Password Use

Participants, Subscribers, and Authorized Affiliates of Participants that utilize the MLS system shall not furnish, disclose or permit the use of their MLS passwords and/or MLS access codes to any person, firm, company or other entity. In the event the password of a Participant or Subscriber is used in violation of Section 10.4, such Participant or Subscriber shall be liable to Southwest MLS for all loss or damage caused by such use and shall be subject to a fine not to exceed $5,000.

Section 11: Ownership of MLS Compilation and Copyright

By the act of submitting any property listing content to The Service the Participant represents and warrants that he or she if fully authorized to license the property listing content as 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 and to provide to third parties for purposes of making portions of the compilation available to the general public or as approved by the Board for other uses by The Service supporting the buying, selling, leasing or appraising of real estate. 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 listed property. *(Amended 5/18)*

Each Participant who submits listing content to the MLS agrees to defend and hold the MLS and every other Participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. *(Amended 5/18)*

Note: The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or "safe harbors" from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of "online service provider" broadly, which would likely include MLSs as well as Participants and Subscribers hosting an IDX display.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as $150,000 per work. For this reason, it is highly recommended that MLSs, Participants and Subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

- Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, Participant, Subscriber, or other individual or entity.
- Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a

copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- Have no actual knowledge of any complained-of infringing activity.
- Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
- Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP's copyright infringement liability. For more information see 17 U.S.C. §512.

*The term MLS compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including but not limited to bound book, loose-leaf binder, computer database, card file, or any other format whatsoever.

Section 11.1 Ownership

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Greater Albuquerque Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the Greater Albuquerque Association of REALTORS®. The MLS Compilation and data contained within the MLS Compilation may be provided to third parties by The Service upon approval of the Board for purposes of supporting the buying, selling, leasing or appraising of real estate.

The term MLS compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including but not limited to bound book, loose-leaf binder, computer database, card file, or any other format whatsoever.

Section 11.2 Display

Each Participant shall be entitled to lease from the Greater Albuquerque 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.

Participants shall acquire by such lease only the right to use The Service compilation in accordance with these Rules and Regulations.

This section should not be construed to require the Participant to lease a copy of The Service 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 listing, selling, or appraising the types of properties which are required to be

filed with The Service and who does not, at any time, have access to or use of The Service information or MLS facility of the association.

Section 12: Use of Copyrighted MLS Compilation

Section 12.0 Distribution

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the association of REALTORS®, and shall not distribute any such copies to persons other than Subscribers who are affiliated with such 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 Service. Use of information developed by or published by The 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 or published by The Service where access to such information is prohibited by law. *(Amended 4/92)*

Section 12.1 Display

Participants and those persons affiliated as licensees with such Participants shall be permitted to display The Service compilation to prospective Buyers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able Buyers for the properties described in said Service compilation.

Section 12.2 Reproduction

Participants/Subscribers shall not reproduce any Service compilation or any portion thereof, except in the following limited circumstances:

Participants/Subscribers may reproduce from The Service compilation and distribute to prospective Buyers a reasonable* number of single copies of property listing data which relate to any properties in which the prospective Buyers are or may, in the judgment of the Participants/Subscribers, be interested.

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

Nothing contained herein shall be construed to preclude any Participant/Subscriber 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 Service 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/Subscriber who is 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.

It is intended that the Participant/Subscriber be permitted to provide prospective Buyers with listing data relating to properties in which the prospective Buyer has a bona fide interest in purchasing or in which the Participant/Subscriber 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 Buyer'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 following:

- the total number of listings in The Service Compilation;
- how closely the types of properties contained in such listings accord with the prospective Buyer's expressed desires and ability to purchase;
- whether the reproductions were made on a selective basis;
- 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 Buyer.

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 that The Service has deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Option 1) (Amended 05/14)

Section 13: Use of The Service Information

Section 13.0 Limitations on Use of The Service Information

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS Participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other Participants, or which were sold by other Participants (as either listing or cooperating broker).

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 or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

> Based on information from the association of REALTORS® (alternatively, from the _____ MLS) for the period *(date)* through *(date). (Amended 11/97)*

Section 14: Changes in Rules and Regulations

Section 14.0 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 Service, subject to final approval by the Board of Directors of the Greater Albuquerque Association of REALTORS® and shall be effective thirty (30) days following notification to Participants.

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 Association of REALTORS® which is the sole and exclusive shareholder of the stock of the service corporation.

Section 14.1 Notice of Proposed Changes in Rules and Regulations

All Participants shall be notified in writing of the proposed amendments a minimum of ten (10) days prior to The Service Board of Directors meeting at which the amendments are to be considered.

Section 15 of NAR Model Rules omitted by option

Section 16 of NAR Model Rules omitted by option

Section 17: Orientation

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who has access to and use of The Service-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to The Service rules and regulations and computer training related to The Service information entry and retrieval and the operation of The Service within sixty (60) 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 orientation and additional training remotely. *(Adopted 11/09)*

Section 18: Internet Data Exchange (IDX)

Section 18 IDX Defined

IDX affords 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 5/17)*

Section 18.1 Authorization

Participants' consent for display of their listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses 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 or other electronic forms of display or distribution. *(Amended 05/17)* (Option 1)

Section 18.2 Participation

Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. *(Amended 11/09)* (Option 4)

Section 18.2.1

Participants must notify The Service of their intention to display IDX information and must give The Service 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 brokers 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 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), or type of listing (e.g., exclusive right-to-sell or exclusive agency). Selection of listings displayed through IDX must be independently made by each Participant. *(Amended 11/21)*

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 Service 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

- 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
- 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 18.2.9, 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. *(Adopted 05/12)*

Section 18.2.9

Participants shall maintain a means (e.g., email 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 of 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 and the email or phone number provided by the listing Participant 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 11/21)*

* 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 devices application. *(Amended 11/21)*

Section 18.3 Display

Display of listing information pursuant to IDX is subject to the following rules:

Section 18.3.1

Listings displayed pursuant to IDX shall contain only those fields of data designated by The Service. Display of all other fields (as determined by The Service) is prohibited. Confidential fields intended only for other MLS Participants and users (e.g., showing instructions, property security information, etc.) may not be displayed. *(Amended 10/16)*

Section 18.3.1.1

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. *(Amended 05/12)*

Section 18.3.2

Deleted May 2015.

Section 18.3.4

Section 18.3.4 of NAR Model rules omitted by option

Section 18.3.5

Non-principal brokers and sales licensees affiliated 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

Item was deleted in NAR Model Rules in November 2006 and is no longer used.

Section 18.3.7

All listings displayed pursuant to IDX shall show The Service as the source of the information. 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 to a display that includes all required disclosures. *(Amended 05/12)*

Section 18.3.8

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' 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 Service. The Service may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or The Service from liability. 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 to a display that includes all required disclosures. *(Amended 05/12)*

Section 18.3.9

Omitted by option

Section 18.3.10

The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in the Service.

Section 18.3.11

Section 18.3.11 Deleted November 2024

Section 18.3.12

Display of sales price and expired, withdrawn, and coming soon listings is prohibited. *(Amended 11/16)*

*Note: If "sold" information is not publicly accessible, display of sales price may be prohibited. "Publicly accessible" as used in IDX policy and rules, means data that is available electronically or in hard copy to the public from city, county, state and other government records. MLSs must provide for its Participants' IDX displays publicly accessible sold information maintained by the MLS starting January 1, 2012. *(Amended 05/21)*

Section 18.3.13

Display of Seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.

Section 18.3.14 – 18.3.16

Omitted by Option

Section 18.4 Service Fees and Charges

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. *(Adopted 11/01, Amended 05/05)*

Section 19: Virtual Office Websites (VOWs)

Section 19.1 VOW Defined

- 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.

- As used in Section 19 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.

- "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 on behalf of a Participant. No AVP has the right to use MLS listing 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 rights of the Participant on whose behalf the AVP operates a VOW.

- As used in Section 19 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

- The right of a 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 offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

- 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).

- 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

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.

- 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.
- 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.
- The Participant must require each Registrant to have a username 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 username and password or may allow the Registrant to establish its username and password. The Participant must also assure that any email address is associated with only one username and password.

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, username, and current password of each Registrant. The Participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

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, username, 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.

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:

- that the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant
- that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
- 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
- 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
- that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database

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.

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 email 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 uses 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 Participant's VOW shall not display the 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.

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

_____
Initials of Seller

The Participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

Section 19.7

Subject to Subsection, below, a Participant's VOW may allow third-parties:

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

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., email 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 forty-eight (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, in the NATIONAL ASSOCIATION OF REALTORS®' VOW policy, or in 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.

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 19.15

A Participant's VOW may not make available for search by or display to Registrants any of the following information:

- expired, coming soon and withdrawn listings
- the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- the Seller's and occupant's name(s), phone number(s), or email address(es)
- instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property
- Sales price if sold information is not publicly accessible in the jurisdiction of the MLS (Amended 11/21)

Section 19.16

A Participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

Section 19.17

A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

Section 19.18

A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm, and the listing broker or agent, and the email or phone number provided by the listing Participant in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

Section 19.19

A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 500 current listings and not more than 500 sold listings in response to any inquiry.

Section 19.20

A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

Section 19.21

A Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information (or that of at least one Participant, in the case of a VOW established and operated on behalf of more than one Participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all Participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

Section 19.22

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

Section 19.23

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

Section 19.24

Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

Section 19.25

Omitted by option