

#### **Article 4 - Participation Defined**

Any REALTOR® of this or any other association who is a principal, partner, corporate officer, qualifying broker, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these Bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service membership or participation unless they hold a current, valid New Mexico real estate qualifying broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. 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 by or published by the Service where access to such information is prohibited by law. The REALTOR® principal of any firm, partnership, corporation, or qualifying broker, or the branch office manager designated by said firm, partnership, or corporation as the Participant in the Service, shall have all rights, benefits, and privileges of the Service, and shall accept all obligations to the Service for the Participant's firm, partnership, or corporation and for compliance with the Bylaws and Rules and Regulations of the Service by all persons affiliated with the Participant who utilizes the service.

Mere possession of a qualifying broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants.

#### **Article 7.3 - Quorum and Voting at Annual and Special Meetings of the Service**

For the purposes of voting for Director nominees, amendments to these Bylaws and other items requiring Participant vote, each Participant shall have a number of votes equal to the number of Subscribers in that Participant's firm as counted on the Monday before the meeting or voting takes place. For the transaction of business, Participants attending in person or by written proxy representing thirty five percent (35%) of the Subscribers and ten percent (10%) of the Participant's offices of the Service shall be considered a quorum. A majority vote by such Participants attending in person or by written proxy and voting at a meeting having a quorum shall be required for passage of a motion.