

# Southwest MLS Policy Statements

Last Updated February 2023

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# Chapter 1: General Policies

## Section 1.1: Antitrust Compliance Policy

**Date of Adoption/Modification/Readoption: May 8, 2013**

The GAAR/SWMLS Antitrust Compliance Policy applies to officers, directors, employees, and members of GAAR/SWMLS. This policy requires that such individuals be familiar and fully comply with all applicable federal and state antitrust laws in all dealings on behalf of GAAR/SWMLS. GAAR facilities will not be used by any officer, director, employee, committee, or member in connection with any anti-competitive or unlawful purpose or unreasonable restraint of trade. Conduct expressly prohibited includes the following:

- A. Any discussion or effort to directly or indirectly fix, peg, stabilize, raise, lower or affect prices on commissions, products, advertising or credit terms;
- B. Any discussion of real estate commissions or other fees or specific non-price business practices of any particular member(s), except in the context of professional standards proceedings. (This limitation shall not extend to discussions of methods of operation, maintenance, and similar matters in which cost or efficiency is merely incidental.)
- C. Any discussion or effort by or among any members, non-members, or competitors to eliminate or limit competition, to divide or allocate territories or customers, or to limit the nature of business carried on or products or services sold or to be sold;
- D. Any discussions or effort to engage in any group boycott or concerted refusals to deal;
- E. Any discussions or effort to injure or disparage the business or the trade of anyone.

If a topic is raised which appears to involve a violation of the antitrust compliance policy, at any formal or informal GAAR/SWMLS meeting, anyone in attendance has the right and all have the duty to interrupt and demand the discussion be stopped. Those in charge of the meeting are responsible for seeing that this policy is enforced so that the prohibited conduct is stopped immediately. If the prohibited conduct persists, those responsible persons shall terminate the discussion, cancel the remainder of the meeting, and refer the matter to the President and/or GAAR/SWMLS legal counsel for further action to ensure compliance with the Antitrust Compliance Policy.

## Section 1.2: Commission

**Date of Adoption/Modification/Readoption: February 12, 2009**

The SWMLS does not and will not establish or maintain fixed or recommended rates of commission. Commissions are a matter of negotiations between the parties (the principal and the Broker), and GAAR will not interfere in those negotiations or inhibit in any way the freedom of the parties to negotiate.

## **Section 1.3: Investment Policy**

**Date of Adoption/Modification/Readoption: July 22, 2015**

### **Purpose**

The purpose of this Investment Policy Statement (IPS) is to establish a clear understanding of the investment objectives and policies of the operating reserves of the Southwest Multiple Listing Service, Inc. (SWMLS). The objectives are:

- A. Outline reasonable expectations, objectives and guidelines in the investment of SWMLS's assets
- B. Detail permitted asset classes and expected allocation among asset classes
- C. Create the framework for a well-diversified asset mix that can be expected to generate acceptable intermediate-term rates of return at a level of risk suitable to SWMLS.
- D. Specify what constitutes minimum communication between the Investment Consultant and SWMLS's Executive Committee.
- E. Establish formal criteria to monitor, evaluate, and compare the risk adjusted performance results achieved by the portfolio on a systematic basis.

This IPS is intended to be a summary of an investment philosophy that provides guidance and continuity for SWMLS, its board members both now and in the future, Executive Committee Members, and their Investment Consultant.

Any changes to this policy must be approved by the SWMLS Board of Directors and communicated in writing and on a timely basis to all interested parties. If any term or condition of this Investment Policy Statement conflicts with any legal governing document, the document shall control, as long as such term or conditions are consistent with the law.

## Executive Summary

Type of Organization	C Corp
Fiduciary Standard of Care	Prudent Man Rule
State of Domicile	New Mexico
Tax ID	XX-XXXXXXX
Current Assets	\$904,105 (as of 9/1/2013)
Time Horizon	3-5 years
Modeled Return	6% annualized
1-Year Loss Limit	-18%

## Asset Allocation Summary

The broad asset allocation summary includes:

<b>Asset Class</b>	<b>% Total</b>
Cash	10%
Fixed Income	50%
U.S. Equity	30%
International Equity	10%
<b>TOTAL</b>	<b>100%</b>

## **Statement of Objectives**

### **Background and Mission**

The Southwest Multiple Listing Service, Inc. was established in 1995. The mission is to be the premier provider of accurate information and MLS services to our Participants and Subscribers. These funds are operating reserves which are not currently committed to future projects but can be accessible for future cash needs.

### **Objectives**

This policy has been arrived at after consideration by the SWMLS Executive Committee and approval by the Southwest Multiple Listing Service, Inc. Board of Directors regarding of a wide range of policies, and describes the prudent investment process deemed appropriate. This process involves hiring one or more Portfolio Managers through the Investment Consultant who will utilize various asset classes and investment management styles that, in total, are expected to diversify the portfolio in a manner consistent with the specified risk and return parameters identified by the Southwest Multiple Listing Service, Inc. Board of Directors as suitable for these operating reserves.

### **The objectives of the portfolio are:**

Maintaining the purchasing power of the current assets and all future contributions. The return objective is to equal or exceed the rate of inflation as measured by CPI.

Maximizing return within reasonable and prudent levels of risk.

Maintaining an appropriate asset allocation based on Modern Portfolio Theory.

Preserving and growing operating reserves for the Southwest Multiple Listing Service, Inc.

### **Time Horizon**

The investment guidelines are based upon an investment horizon of 3-5 years. The Portfolio's Asset Allocation is also based on this intermediate term perspective. Short and Intermediate term liquidity requirements are anticipated to be handled in a separate account dedicated for those needs, or by cash inflows from normal operating revenues.

## **Risk Tolerances**

SWMLS recognizes and acknowledges that some risk must be assumed in order to achieve the investment objectives of the portfolio and that there are uncertainties and complexities associated with contemporary investment classes.

In establishing the risk tolerances for this Investment Policy Statement, SWMLS's ability to withstand short and intermediate term price volatility was considered. SWMLS's prospects for the future, current financial condition, and level of funding in the portfolio suggest collectively that some interim fluctuations in market value and rates of return may be tolerated in order to achieve longer-term objectives.

To help quantify the level of risk SWMLS is willing to accept, a Risk Tolerance questionnaire was completed on September 6, 2013 in conjunction with the Greater Albuquerque Association of REALTORS®, Inc. A copy of this questionnaire is included in Addendum "A" to this IPS. The score of 18 on the questionnaire indicates the risk tolerance as a Profile 2 investor. Losses of 16% in a given year are tolerable though obviously undesirable. The expected return and volatility of these returns are illustrated in the Asset Allocation section below.

## **Spending Policy**

No spending policy is being specified at this time because cash needs will be addressed in another account utilizing short-term investment instruments.

## **Asset Class Guidelines**

SWMLS believes long term investment performance, in large part, is primarily a function of asset class mix. SWMLS has reviewed the long-term performance characteristics of the broad asset classes, focusing on balancing risks and rewards.

Historically, while interest generating investments, such as bonds, have had the advantage of relative stability of principal value, they have provided little opportunity for real long term capital growth due to their susceptibility to inflation. Equity investments, such as common stocks, have traditionally had a significantly higher possible return, but have displayed the disadvantage of greater year-over-year variability of return. From an investment decision making point of view, year-over-year variability may be mitigated by SWMLS's 3-5 year investment time horizon.

## **Strategic Asset Allocation**

An approach using Strategic Asset Allocation will be utilized for the portfolio. Proper portfolio diversification has historically proven to be a key tool in managing risk. While neither diversification nor strategic asset allocation can assure profit or protect against loss in declining markets, determining the right mix of asset classes is one of the first and most important decisions to make regarding the long-term management of SWMLS's operating reserves.

The investment style of a variety of Portfolio Managers has historically played a key role in portfolio performance. These distinct investment styles and asset classes have different risk and return characteristics. Diversification across multiple asset classes and Portfolio Managers can reduce portfolio volatility without sacrificing targeted returns. The Portfolio Managers will combine investments in mutual funds within and across the various asset classes to achieve the highest expected returns consistent with specified risk tolerance and time horizon.

## **Acceptable Asset Classes**

The following asset classes have been approved by SWMLS.

### **Cash and Short Term Fixed Income Securities**

- Treasury Bills
- Money Market Investment Funds
- Commercial Paper
- Banker's Acceptances
- Repurchase Agreements
- Certificates of Deposit

### **Fixed Income Securities**

- Treasury Inflation Protected Securities (TIPS)
- U.S. Government and Agency Securities
- Corporate Notes and Bonds (BBB or better)
- Mortgage Backed Bonds, Asset Backed Bonds
- Preferred Stock
- Fixed Income Securities of Foreign Governments and Corporations
- Collateralized Mortgage Obligations

## **Equity Securities**

- Common Stocks
- Convertible Notes and Bonds
- Convertible Preferred Stocks
- American Depository Receipts (ADRs) of Non-U.S. Companies
- Stocks of Non-U.S. Companies (Ordinary Shares)
- Real Estate Investment Trusts (REIT's)

## **Mutual Funds**

- Mutual Funds which invest in securities as allowed in this policy and none of whose investments are expressly prohibited in this policy.

## **Exchange-Traded Funds**

- Exchange-traded funds which invest in securities as allowed in this policy and none of whose investments are expressly prohibited in this policy.

## **Other/Alternatives**

- Hedge Fund of Funds –Registered
- Managed Futures
- Commodity Strategies – Limited to mutual funds or ETFs
- High Yield Bonds
- Socially Responsible Investment Strategies – Equities or Mutual Funds
- Emerging Market Equity or Debt
- Master Limited Partnerships (MLPs)
- Options – Covered Calls & Protective Puts

## **Prohibited Assets**

- Private Equity
- Private Placements
- Limited Partnerships
- Venture-Capital Investments
- Real Estate Properties
- Interest-Only (IO), Principal-Only (PO), and Residual Tranche CMOs
- Naked Options
- Non-Registered investment cooperatives or Pooled Funds



## Prohibited Transactions

Prohibited transactions include, but are not limited to the following:

- Margin Transactions
- Short Sales

## Security Restrictions

Unregistered securities and unmarketable securities will not be allowed. Each investment optionshall be managed by a bank, an insurance company, a registered investment company (mutual fund), or a registered Investment Advisor.

## Asset Allocation

Based upon SWMLS's tolerance for risk and time horizon, the following mix of investment classes are best suited to meet SWMLS's objectives.

<b>Asset Class</b>	<b>Target Allocation</b>	<b>Acceptable Range</b>	<b>Performance Benchmark</b>
Cash	10%	1% - 15%	Citigroup 3-Month Treasury
U.S. Fixed Income	50%	25% - 65%	Barclays Aggregate Bond
Intl Fixed Income	10%	0% - 20%	Citigroup World Gov Bond
Large Growth	7%	5% - 15%	Russell 1000 Growth
Large Value	8%	5% -15%	Russell 1000 Value
Mid Cap	5%	0% -7%	Russell Mid-Cap
Small Cap	0%	0% - 5%	Russell 2000
International	10%	5% -20%	MSCI EAFE
Emerging Markets	0%	0% - 5%	MSCI Emerging Markets
Real Estate	0%	0% - 5%	FTSE NAREIT Global
Commodities	0%	0% -5%	Dow UBS Commodity
Hedge Funds	0%	0% - 3%	HFRI Fund of Funds
Managed Futures	0%	0% - 3%	S&P DTI
Tactical	0%	0% -5%	MSCI World
<b>TOTAL</b>	<b>100%</b>		

## **Return and Risk Expectations**

Based upon RBC Wealth Management's Advisory Risk Profile (Addendum "B"), the Proposed Asset Mix has the following Return and Risk Expectations.

- Return: 4.8%
- Risk: 6.5% (Standard Deviation)
- 1-Yr Potential Gain: 39%
- 1-Yr Potential Loss: -16%

## **Rebalancing**

The percentage allocation to each asset class may vary depending upon market conditions. Please reference the asset allocation table for the lower and upper limits (acceptable range) for each asset class. The Portfolio Manager will rebalance the portfolio to remain within the limits listed within the asset allocation table. If there are multiple Portfolio Managers, the Investment Consultant will be responsible for rebalancing.

## **Duties and Responsibilities**

### **Executive Committee**

As fiduciaries for SWMLS, the primary responsibilities of the Executive Committee related to investment monitoring are:

- A. Prepare and maintain the investment policy statement.
- B. Ensure that policies and guidelines are followed and reviewed periodically for suitability to a changing organization.
- C. Monitor and supervise the Investment Consultant's adherence to investment guidelines and reporting standards.
- D. Evaluate performance relative to established guidelines and indices.
- E. Change Investment Consultant's should they fail to meet established standards.
- F. Authorize the Investment Consultant to change Portfolio Managers should they fail to meet established standards.
- G. Avoid prohibited transactions and conflicts of interest.

SWMLS must provide their Investment Consultant all relevant information on financial condition and risk tolerance changes and must notify the Investment Consultant promptly of any changes to this information. SWMLS will meet quarterly with the Investment Consultant for performance reviews.

SWMLS will review this IPS at least annually to determine whether stated investment objectives are still relevant and the continued feasibility of achieving the goals is the same. It is not expected that the IPS will change frequently. In particular, short-term changes in the financial markets should not require adjustments to the IPS. Effort has been made to broaden the acceptable ranges on the asset classes to accommodate most changes in market conditions while safeguarding general principals of a conservative investment portfolio.

## **Custodian**

Custodians are responsible for the safekeeping of SWMLS's assets. (This is currently RBC Wealth Management.) The specific duties and responsibilities of the custodian are:

- A. Value the holdings.
- B. Collect all income and dividends owed to SWMLS.
- C. Settle all transactions (buy sell orders).
- D. Provide monthly reports that list all assets held by SWMLS, values for each asset and all transactions affecting assets within the portfolio, including additions and withdrawals.
- E. SWMLS shall receive no less frequently than on a quarterly basis and within 45 days of the quarter end the following management reports:
  - a. Portfolio performance results over the last quarter, 1 year, 3 years, and 5 years, etc.
  - b. Performance results of comparative benchmarks for the applicable periods. A weighted customized benchmark will be used to measure how well the accounts' different asset classes have performed against corresponding benchmarks. (See the Asset Allocation Illustration.)
  - c. Portfolio allocation comparison to stated objectives.
  - d. Quantitative analysis of Portfolio Manager's performance on both an absolute and risk-adjusted basis relative to the investments' benchmark index.

## **Investment Consultant**

The Investment Consultant (currently Paulette Reed until April 1, 2015 and, thereafter The CatesTeam, RBC Wealth Management) serves as an objective, third party professional retained to assist SWMLS in managing the overall investment process. The Investment Consultant is responsible for guiding the Committee through supervision of a disciplined and rigorous investment process to enable the Committee to meet the fiduciary responsibilities outlined above.

The Investment Consultant shall be responsible for:

- A. Advising the Committee about the selection and allocation of Portfolio Managers.
- B. Monitoring the performance of Portfolio Managers and alerting the committee of any concerns including but not limited to performance.
- C. Reporting to SWMLS changes within the Portfolio Managers' organizations which may affect portfolio (such as personnel changes).
- D. Periodically reviewing the suitability of the investments for SWMLS, making sure the Investment Policy Statement is followed.
- E. Meeting with SWMLS quarterly, and being available at such other times within reason as GAAR requests.
- F. Preparing and presenting appropriate reports which SWMLS requests.

The Investment Consultant cannot be a SWMLS Board member or a member of any of its committees or an employee of SWMLS.

The Investment Consultant shall not take title to any assets and shall be responsible only to make recommendations to SWMLS and to implement decisions as directed by the SWMLS Executive Committee and the Board of Directors.

On a quarterly basis the SWMLS Executive Committee will meet with the Investment Consultant to review:

- A. The portfolio's conformance to the Investment Policy Statement's guidelines.
- B. Performance relative to specified benchmarks along with market commentary.
- C. Any changes in the financial status or objectives of SWMLS.
- D. Timely market commentary.

## **Portfolio Managers**

The Portfolio Manager will be responsible for:

- A. Managing the assets under their supervision in accordance with the guidelines and objectives outlined in their respective Service Agreements, Prospectuses or Trust Agreements.
- B. Exercising full investment discretion with regards to buying, managing, and selling assetsheld in the Portfolio.
- C. Voting promptly all proxies and related actions in a manner consistent with the interests and objectives of the Portfolio as described in this IPS. Each Portfolio Manager shall keep detailed records of the voting of proxies and related actions and will comply with allapplicable regulatory obligations.
- D. Communicating to the Investment Consultant all significant changes pertaining to the fund it manages or the management firm itself. Changes in ownership, organizational structure, financial condition, and professional staff are examples of changes to the firmin which the Investment Consultant on behalf of SWMLS is interested.
- E. Effecting all transactions for the Portfolio subject "to best price and execution."
- F. Using the same care, skill, prudence, and due diligence under the circumstances then prevailing that experienced investment professionals, acting in a like capacity and fully familiar with such matters, would use in like activities for like Portfolios with like aims in accordance and compliance with all applicable laws, rules, and regulations.

## Monitoring

### Performance Objectives and Monitoring

SWMLS acknowledges fluctuating rates of return characterize the securities markets, particularly during short term time periods. Recognizing that short term fluctuations may cause variations in performance, SWMLS intends to evaluate investment performance from an intermediate term perspective.

The Executive Committee is aware the ongoing review and analysis of the portfolio is just as important as the original due diligence process. The performance of the portfolio will be monitored on an ongoing basis and it is the Investment Consultant's responsibility to recommend replacing the Portfolio Manager if they deem it appropriate at any time and for any reason.

### Watch List Criteria

A Portfolio Manager will be placed on a watch list and a more thorough review and in-depth analysis may be conducted, when:

- A. Performance drops below the median peer performance for four consecutive quarters.
- B. Performance falls significantly below the custom benchmark which mirrors the weighted performance of each asset class.
- C. The portfolio's risk adjusted return (Alpha and/or Sharpe) falls below the peer group's median risk adjusted return for four consecutive quarters.
- D. There is a change in the professionals managing the portfolio.
- E. There is an indication the portfolio holdings are deviating from the stated style and/or strategy.
- F. There is an increase in the investment option's fees and expenses.
- G. Any extraordinary event occurs that may interfere with the Portfolio Manager's ability to prudently manage investment assets.

Along with the factors above, the Investment Consultant's confidence in the investment option's ability to perform in the future will be a large consideration in ultimately determining the retention of a Portfolio Manager. Ultimately though, a vote of the majority of SWMLS Executive Committee's members determines the retention or firing of a Portfolio Manager on the "watch list".

## Chapter 2: Governance of the MLS

### Section 2.1: Duties of the President

**Date of Adoption/Modification/Readoption: May 8, 2013**

The President shall serve as the chief spokesperson for SWMLS and shall represent SWMLS at local, state, regional and national meetings/events.

### Section 2.1.1: Fees for President

**Date of Adoption: June 25, 2014**

During the year of service of the President, SWMLS will waive the MLS fees of the President. The amounts so waived will be reported to the President on a Form 1099.

### Section 2.2: Executive Committee

**Date of Adoption/Modification/Readoption: February 12, 2009**

Anyone, other than Participants/Subscribers, wishing to address the Executive Committee or the Board of Directors must have the approval of either the Executive Committee or the President.

### Section 2.3: Committees

**Date of Adoption/Modification/Readoption: May 8, 2013**

Any requests by committees/members for staff time other than normal liaison functions shall be coordinated through the GAAR CEO.

### Section 2.4: Voting Procedures

**Date of Adoption/Modification/Readoption: February 12, 2009**

*The procedures for balloting and tabulation are as follows:*

The Chief Executive Officer of the Southwest Multiple Listing Service, Inc. shall be responsible for implementing the voting procedures.

Elections shall be conducted electronically.

Participants eligible to vote will be provided detailed voting instructions with the Candidate Information provided in advance of the election period. Participants eligible to vote shall be those Participants in good standing with SWMLS. The election period shall be determined by the Chief Executive Officer in compliance with the Policies and/or Bylaws.

The election site will clearly state "Vote for not more than #." # indicates the number of positions available.

The election site will be a secure site, allowing eligible Participants to vote only during the election period.

Participants without internet access may cast their electronic vote at the SWMLS office during the election period.

In the event of a tie between two or more candidates, a written ballot shall be taken at the first appropriate Board of Directors meeting by those Directors elected at large, the candidate receiving the highest number of votes shall be declared elected. In the event of a tie amongst the Board of Directors, the President shall break the tie.

At the completion of the election period, the results will be available to the Chief Executive Officer or appointed voting administrator via a password protected website from the electronic voting provider. The reports available will include how many votes were cast and the results of the elections. No information is maintained that would indicate who voted for whom.

Results of elections shall become part of the permanent records of SWMLS. Results of the elections shall be announced to the membership within five (5) business days of the end of the election period on the SWMLS website.

Only one vote per Participant.



## Chapter 3: Travel

### Section 3.1: Travel Policy for Officers and Directors

**Date of Adoption/Modification/Readoption: May 21, 2014**

**Date of Modification: October 20, 2022**

Budgeted travel expenses for Directors after their first year of service will be reimbursed for one trip up to an amount determined by the Executive Committee (with Board approval) during the budget process each year. Officers serving as Treasurer or Immediate Past President will be reimbursed for one additional trip up to the same amount. Budgeted travel expenses and registration fees for the President and President-elect shall be established in the annual budget for the following meetings:

- National Association of REALTORS® NXT Annual Convention
- National Association of REALTORS® Legislative Conference
- New Mexico Association of REALTORS® Legislative & Leadership Conference
- New Mexico Association of REALTORS® Annual Meeting
- Council of MLS (CMLS)
- Other meetings as approved in the Budget

Any other travel requirements in line with the responsibilities of carrying out the duties of the office of President and President-elect will be approved from time to time by the Board of Directors.

#### General Guidelines

When traveling on behalf of SWMLS, Directors are expected to attend and engage in events and activities of the conference in person. An expense report must be submitted within 30 days of the approved business travel along with a minimum of three takeaways/notes and a brief verbal reports at the next board meeting. The form must include the member's name, e-mail and mailing addresses, date(s) of travel, business purpose, and member signature. The completed form and all receipts must be submitted to SWMLS for approval. SWMLS will not reimburse expenses which are not in compliance with this policy or IRS requirements. If discrepancies are noted on the expense report, the Chief Executive Officer will contact the member to resolve the issue. If unresolvable at the staff level, the Executive Committee must determine whether the item(s) are reimbursable.

After the expense report is approved, it is submitted to SWMLS finance for processing. Accounts payable are processed twice monthly.

Receipts are required for all expenditures. Tips not included on a receipt for a meal or transportation do not require a receipt but should be described in detail.

## Reimbursable Expenses

The following expenses are reimbursable for members traveling on behalf of the SWMLS.

### Registration

Registration for a meeting included in the budget will be arranged by the Chief Executive Officer with the maximum number of reimbursable days being determined based upon the length of the meeting. Generally, registrations are paid for through the SWMLS and do not require reimbursement. SWMLS will only cover the price of early-bird registration expense. Any additional cost for registration after the Early Bird period will be deducted from the final reimbursement.

### Airline/Rail Transportation

Members must purchase seating in the Economy or Coach class of fares. Early bird check-in fees will be reimbursed. Additional costs for premium class seating (ex. – first class, business class, economy plus, etc.) are not reimbursable. Tickets should be purchased as early as possible to take advantage of the lowest costs.

- Seat assignment fees within the Economy or Coach classes are reimbursable. However, convenience charges such as fees for extra leg room, priority check-in and express security clearance fees, etc. are not reimbursable.
- Checked and carry-on baggage fees (up to a total of 2 checked bags per trip) are reimbursable. However, overweight baggage fees are not reimbursable.
- A member can include personal travel in conjunction with an approved business trip; however, the member is responsible for payment of the personal portion of the trip or costs over the cost of a direct economy or coach class ticket.
- Members will not be reimbursed for business use of frequent flyer miles or vouchers, vouchers for bumping, discount coupons or other instruments of value. Such discount instruments, if earned as a result of personally paid travel should be used for subsequent personal travel.
- Costs associated with change of original travel will not be reimbursed.

Airline/Rail travel receipts must be submitted.

## **Use of Personal Vehicle – Mileage/Parking**

If a member chooses to drive to a meeting in lieu of flying, he/she should consult with the Chief Executive Officer. Reimbursement will be based on reasonable costs and the amount will not be higher than applicable coach air travel costs. Mileage reimbursement is equal to the number of business miles driven multiplied by the IRS approved mileage rate. Gas used in a personal car is not reimbursed because the IRS includes this expense in the mileage reimbursement calculation. Actual costs of parking and tolls for approved business trips are reimbursable. Traffic fines and parking violations are not reimbursable.

When using a personal vehicle, the cost of parking at the conference hotel should be considered. Parking costs will be aggregated with mileage and limited by the cost of applicable coach air travel costs.

## **Taxis/Public Transportation**

Business related local transportation costs are reimbursable (ex. Taxi, bus, local rail service) including costs to and from the airport. Receipts are required for all expenditures with the business purpose of transportation noted.

## **Lodging**

Lodging will be arranged by the Chief Executive Officer up to the maximum number of reimbursable days determined based on the length of the meeting. While reservations are made by the Chief Executive Officer, the member will be expected to pay the room and tax upon check-out. If the member wishes to have the room pre-paid, the member should notify the Chief Executive Officer in sufficient time to make arrangements with the hotel. Should the member choose to stay extra nights in addition to the dates set for the meeting, the member is responsible for payment of the nights that are considered the personal portion of the trip and will not be included in any prepayment of lodging.

Should a member find it necessary to cancel hotel reservations, the Chief Executive Officer must be contacted during business hours (or the hotel if after hours) so that SWMLS does not incur “no show” charges.

Hotel receipts which include line item expenditures and proof of payment must be submitted with expense reports.

## **Meals and Incidentals**

SWMLS reimburses traveling members for the reasonable cost of food, refreshments and incidentals (ex. Laundry and valet services, toiletries, snacks/mini-bar items) subject to a daily limit of \$100. Costs of meals vary dependent on the geographic area and the member is expected to use prudence. Tips for meals will be included in the total cost of a meal.

The member must track and report actual expenses incurred in order to be reimbursed. Receipts are required for all expenditures. If dining with a group, members should request separate checks.

### **Guest Entertainment (Food/Beverage)**

Since SWMLS has budget limitations, only the President may be reimbursed for guest entertainment expenses if the entertainment is in the advancement of SWMLS's business goals and concerns and is subject to the \$100 per person per day limit. In accordance with IRS requirements, the expense report MUST include the names of the guests and the business purpose.

SWMLS leadership may choose to have a community dinner on one night of the conference. If arrangements are made for such a dinner, the Chief Executive Officer or the President will pay for the bill for all approved members. Any members who bring guests will be expected to request a separate check and pay for their guest(s). If other guests are invited by the President or Chief Executive Officer, the names of the guests and the business purpose must be stated on the receipt.

### **Tips**

Reasonable tips for regular business meetings are reimbursable. Note that tips for cab fares and meals are reported as a part of those items and are not reported separately.

### **Telephone/Fax/Internet**

All business calls are reimbursable except air-to-ground (air phone) calls. Where possible, members should use his/her cellular phone to make personal phone calls while travelling on SWMLS business so as to not incur additional surcharges of the hotel. Internet charges and fax costs related to the business purpose of the trip will be reimbursed.

## **Non-Reimbursable Expenses**

The following expenses are considered non-reimbursable for members traveling on behalf of SWMLS.

- Cost of premium airline/rail seating (ex. –first class, business class, economy plus, etc.) –however, note that fees for seat assignments within coach or economy classes are reimbursable.
- Convenience charges such as fees for extra leg room, priority check-in and express security clearance fees, etc.
- Business use of frequent flyer miles and other discount instruments
- Fees for additional earning of miles
- Gas for personal vehicles (already covered by IRS mileage reimbursement rate)
- Traffic fines or parking violations
- Personal entertainment (ex. – in-room movies, airline headphones, books, magazines, costs of museums, shows, tours, or transportation related to personal entertainment, etc)
- Barber or beautician Services
- Clothing
- Air-to-ground (air phone) charges

Airfare, transportation, and meals and incidentals (limited to \$100 per day) will be reimbursed for a guest traveling with the President up to \$1,500 annually. A Form 1099 will be issued to the President in an amount equal to the costs incurred.

Members accepting travel funding are obligated to attend and represent SWMLS at approved meetings.

## Chapter 4: Financial

### Section 4.1: Contracts

**Date of Adoption/Modification/Readoption: May 8, 2013**

Only the President and/or GAAR Chief Executive Officer (CEO) are authorized to enter into any contracts on behalf of SWMLS.

At the discretion of the President and/or GAAR Chief Executive Officer, Board counsel shall review contracts as needed.

Any contract in excess of \$10,000 (except those approved in the budgeting process such as audit and insurance expenses) shall be presented to the BOD for approval prior to execution.

### Section 4.2: Professional Services

**Date of Adoption/Modification/Readoption: May 8, 2013**

The SWMLS through GAAR shall retain a law firm annually to serve as legal counsel.

Only the President, CEO, and designated staff shall be authorized to contact legal counsel. All other individuals and committees desiring the usage of legal counsel shall submit a request to the CEO, and permission will be determined on the merit of each request.

The Board shall retain a firm/individual annually to perform an annual audit.

### Section 4.3: Financial Statements

**Date of Adoption/Modification/Readoption: May 8, 2013**

The SWMLS shall follow generally accepted accounting principles.

### Section 4.4: Shareholder Approval

**Date of Adoption/Modification/Readoption: May 8, 2013**

In accordance with SWMLS Bylaws, the Board of Directors of SWMLS cannot, without prior approval of the Board of Directors of GAAR, make any unbudgeted expenditure or incur any debt in excess of \$75,000 or cause a cumulative deviation in excess of 5% of the total budget.

## **Section 4.5: Banking**

**Date of Adoption/Modification/Readoption: May 8, 2013**

Accounts will be maintained at insured financial institutions as directed annually by the Executive Committee or BOD.

All checks up to \$3,000 will require only one signature. All checks \$3,000 and greater require two original signatures. Signatories shall include the current President, President-elect, Secretary/Treasurer, and Immediate Past President. All monthly financial statements will be provided to the Executive Committee for review.

## **Section 4.6: Fees and Fines**

**Date of Adoption/Modification/Readoption: May 8, 2013**

**Date of Modification: October 20, 2022**

Fees for participants and their subscribers may be determined, and as amended from time to time, by the Board of Directors of the Service. Fees shall be prorated based on month of joining.

Fees for all Participants and/or Subscribers shall be paid annually in advance and cover the fiscal year beginning the following July 1 through June 30. Fees must be paid by July 1 to ensure continuation of services.

Effective January 1, 2023, Participant or Subscriber Fees are non-refundable. The CEO or President may consider extenuating circumstances regarding the refund of local fees on a case-by-case basis.

Refunds for other SWMLS fees may be addressed on a case-by-case basis by the CEO or President.

Should a Participant/Subscriber choose to recommence service within the service year (July 1 – June 30) the Participant/Subscriber will be required to pay a reinstatement fee to be determined each year by the Board of Directors. If the Participant/Subscriber choose to recommence service after the service year has passed, the Participant/Subscriber is subject to all reinstatement fees and pro-rations for the new service year. If the Participant/Subscriber has been inactive for one calendar year or longer, they reapply as a new member with all associated fees.

New office set-up fees are due and payable upon joining and must be paid prior to activation of account.

Transfer fees are due and payable upon transfer by the transferring broker and must be paid prior to activation of new account.

Reinstatement fees are due and payable after account termination has occurred and prior to reactivation of account.

Compliance fines are due and payable upon receipt.

## **Section 4.7: Billing and Collection Policy**

**Date of Adoption/Modification/Readoption: September 23, 2020**

Billing and Collection Policy for Annual Fees:

- A. Invoices for annual fees shall be sent by May 1. Fees are due and payable by June 30.
- B. Accounts not paid by July 1 are subject to a late fee of 5%. The Participant and/or Subscriber shall be notified and given until July 15 to cure the delinquency.
- C. Accounts not paid by July 15 will be suspended and given until July 20 to cure the delinquency. If a Participant, suspension will affect service for the entire office. If a Subscriber, the Participant will be notified that Subscriber has not paid and that Subscriber's lack of payment will be due by Participant.
- D. Accounts not paid by July 20 will be terminated. Participant will be notified of termination in writing. Any Participant who has outstanding fees, including the unpaid fees of subscribers, as of July 20 will be terminated, including his/her entire office. Any Participant who has been terminated will be subject to reinstatement fees which must be paid prior to reinstatement.
- E. If any date above falls on a weekend, the action may be taken on the next business day.

Billing and Collection Policy for Compliance Fines:

- A. Invoices for compliance fines are due and payable upon receipt.
- B. A statement will be sent at month end summarizing invoices issued during the month and still unpaid.
- C. Accounts not paid by the 15<sup>th</sup> day of the following month will be suspended. The Participant and/or the Subscriber will be notified.
- D. Accounts not paid by the 20<sup>th</sup> day of the following month will be terminated from SWMLS. The Participant and/or Subscriber will be notified in writing of such termination.

Types of Payment Accepted:

All payments must be made by Money Order, Cashier's Check, Personal Check, Company Check, or Credit Card. No cash payments will be accepted.

Checks Returned by the Bank:

The fee to be charged for a returned check (non-sufficient funds, account closed, etc.) shall be \$35.00 or a fee equal to the cost assessed by the bank. After a Participant or Subscriber has presented one returned check, payment shall be by credit card or certified funds. The second and subsequent returned check will result in immediate suspension of services without notice. If a Subscriber does not pay this fee in a timely manner, the charge may be billed to the Participant. If terminated for non-payment, Participant and Subscriber are subject to all reinstatement fees.



## **Section 4.8: Reserves**

**Date of Adoption/Modification/Readoption: February 12, 2009**

MLS Reserves: Any income over expense at the end of any fiscal year, as determined by the Annual Audit, shall be placed in an operating reserve fund equal to not less than three (3), nor more than six (6) months operating expense. In the event that the operating reserve reaches an amount equal to six (6) months of operating expenses, the Board of Directors shall begin to utilize any amount in excess of six (6) months of operating expenses toward the annual operating budget.

## Chapter 5: MLS Operations

### Section 5.1: Advertising

**Date of Adoption/Modification/Readoption: March 21, 2012**

The SWMLS Board of Directors may approve the selling of advertising.

### Section 5.2: Administrative Codes

**Date of Adoption/Modification/Readoption: September 14, 2016**

The designated REALTOR® is eligible for administrative codes at no cost in a number not greater than the number of Participants and licensed Subscribers in an office. Upon request, additional codes may be assigned to the designated REALTOR® for a monthly charge of \$20. Requests for new administrative codes for an office must be made in writing and authorized by the designated REALTOR®. Administrative codes are assigned only to unlicensed individuals who are under the direct supervision of the MLS Participant or the Participant's licensed designee, and are to be used by the assignee only. Individuals may not carry an active Real Estate license in any state. Codes are not to be set-up in a manner that would enable use by multiple people.

A designated REALTOR® Appraiser may request Administrative Codes for Registered Appraisers (Appraiser in Training) under his/her supervision. The monthly cost for these codes will be \$20 each.

An audit of administrative codes assigned will be conducted at least annually. It is the Participant's responsibility to notify GAAR/SWMLS when the person assigned the code is no longer associated with his/her office or has changed status (earned real estate license, becomes a certified or licensed appraiser). For security reasons, new passwords must be issued for new administrative personnel.

The Participant certifies that the Administrative Assistant having access to The Service is under the Participant's employment or an independent contractor in the Participant's office. The Participant is responsible for informing GAAR and SWMLS within 48 hours when this person is no longer employed by the Participant or the company. Failure to notify GAAR and SWMLS will be considered sharing of the code with unauthorized persons, a willful misuse violation and fineable up to \$5,000.

The representative of any third-party company will be required to complete a disclosure agreement to provide SWMLS with acknowledgement and responsibility from the Participant requesting the code. If a third-party company works for multiple brokerages, he or she will be required to complete disclosure agreements for each company, will be assigned separate codes, and will be charged a \$20 fee per month, per code, per brokerage.

Any user of an administrative code must certify that they understand that all data acquired from the MLS is confidential and agree to use it only to conduct the business of the Designated REALTOR® to whom the code was assigned.

## Section 5.3: Compliance Committee Structure

**Date of Adoption/Modification/Readoption: August 19, 2011**

**Membership:** The Compliance Committee shall consist at least nine (9) voting members which shall be representative of the various sizes of offices in The Service and shall consist of both Subscribers and Participants. All members of the committee shall be voting members including the Chair and the immediate Past-Chair. The committee shall include at least one appraiser. All members of the committee shall have at least three (3) years of experience in the real estate business. Non-voting members may include the committee liaison from the Board of Directors. The Chair of the committee may be either a Subscriber or a Participant and shall vote only in case of ties.

**Committee Leadership:** A Vice-Chair will be appointed by the President-elect. The Vice-Chair will succeed the Chair when his/her term expires and will fill in for the Chair in the absence of the Chair. In the absence of the Chair and Vice-Chair, the Past-Chair will preside at Committee meetings. Each leadership term will be for one (1) year. i.e. Vice-chair, 1 year; Chair, 1 year; Past-Chair, 1 year.

**Commitment:** Each member will serve a three (3) year term, with staggered terms to ensure committee continuity. The outgoing Chair will serve an additional year as Past-Chair.

**Meeting:** The committee meets approximately once per month, with additional meetings or joint meetings (with the Policy Committee) scheduled as necessary. Each meeting lasts approximately two hours. If a member misses three (3) meetings in a calendar year, he/she will be replaced by appointment by the President to fulfill that member's current commitment.

**Tasks:** The committee shall review alleged violations of the Rules and Regulations and conduct hearings as requested and take such action as required.

**Coordination:** The Compliance Committee shall work closely with the Policy Committee to maintaining and update the Rules and Regulations so as to ensure their compliance of all members.

## Section 5.4: Policy Committee Structure

**Date of Adoption/Modification/Readoption: March 21,2011**

**Membership:** The committee shall be comprised of no fewer than nine (9) voting members. Non-voting members may include the Chair of the committee, the committee liaison from the Board of Directors, and the past-Chair. The Chair of the committee may be either a Subscriber or a Participant.

A vice-chair will be appointed by the President-elect, and will succeed the Chair when his/her term expires.

The committee shall include at least one appraiser and at least two Subscribers/Participants with greater than five (5) years of experience in the business.

All committee members must have been in the business a minimum of one (1) year. Any member may submit a nomination for consideration.

**Commitment:** Each member will serve a three (3) year term, with staggered terms to ensure committee continuity. The outgoing Chair will serve an additional year as past-Chair.

Each leadership term will be for one (1) year. i.e. Vice-chair, 1 year; Chair, 1 year; Past-Chair, 1 year.

The committee meets approximately once per month, with additional meetings or joint meetings scheduled as necessary. Each meeting lasts approximately two hours. If a member misses three (3) meetings in a calendar year, he/she will be replaced, *as appointed by the President, to fulfill that member's current commitment.*

**Tasks:** The Policy Committee is tasked with maintaining and updating the Rules and Regulations and working with the Compliance Committee to ensure compliance with the Rules and Regulations.

The Committee writes new policy when necessary and implements and integrates policies passed down from the National Association of REALTORS®.

The Policy Committee also oversees MLS system policies, requests from membership regarding access and/or exceptions, and improvements such as new maps, changes in system features, and system upgrades and improvements.

## Section 5.5: Emerging Trends and Technology Committee Structure

**Date of Adoption/Modification/Readoption: November 28, 2018**

**Membership:** The Emerging Trends and Technology Committee shall consist of SWMLS Subscribers and Participants. All members of the committee shall be voting members and include a Chair and Vice-Chair. The number of members to serve shall be at the discretion of the President with no less than (8) persons selected.

A vice-chair will be appointed by the President-elect, and will succeed the Chair when his/her term expires.

All members of the committee shall have at least two (2) years of experience in the real estate business.

**Commitment:** Each member will serve a two (2) year term, with staggered terms to ensure committee continuity.

The committee meets approximately once per month, with additional meetings or joint meetings scheduled as necessary. Each meeting lasts approximately two hours. If a member misses three (3) meetings in a calendar year, he/she will be replaced, *as appointed by the President or President-elect, to fulfill that member's current commitment.*

**Tasks:** The Emerging Trends and Technology Committee shall review, research, or vet new MLS products and services that could benefit SWMLS Participants, Subscribers, MLS staff, and Affiliate users. Acting as an advisory group the Committee would be expected to make recommendations to the SWMLS Board of Directors on applicable products that are deemed to be an important benefit.

The Committee may also discuss emerging trends in real estate technology, and at the request of the BOD or MLS Executive committee, review new companies or individuals requesting data license agreements for MLS data. During times of an MLS system review the committee may also act as an advisory task force for the Board by reviewing alternative MLS systems.

A SWMLS staff member, acting as the group liaison will coordinate demos and conference calls with vendors as needed.

### **The following sections were removed March 21, 2012:**

*Section 5.2: Access Training*

*Section 5.4: Computer Classroom Usage Section*

*5.5: MLS Software Distribution Section*

*5.6: Training Login Codes*

*Section 5.7 Compliance Committee Fine and Appeal Procedure Policy – extracted from Policies and moved to Rules and Regulations August 19, 2011*

*Section 5.10 Safe MLS*

## Chapter 6: MLS Participation

### Section 6.1: SWMLS Orientation

**Date of Adoption/Modification/Readoption: February 12, 2009**

SWMLS ORIENTATION (*Does NOT include information on using MLS System*)

When a User is granted MLS Access, SWMLS Orientation attendance is required within 60 days (or within the next 2 available orientation dates, whichever is greater) of joining. If a new User does not attend the Orientation within 60 days or within 2 available orientation dates, their access to the MLS System will be turned off until attendance at Orientation is completed.

Seven (7) business days prior to Orientation, the Orientation class will be closed to signups. All attendees that are signed up will receive their certificate of completion on the date of attendance. Orientation will be closed at 10 minutes after start of the class. Any attendees arriving more than 10 minutes late will not be guaranteed a seat. Any attendees arriving more than 10 minutes after the class begins will be denied entry and rescheduled if possible – this does not release the attendee from the requirement stated above.

If desired, a new User missing a signup deadline for Orientation may choose to go on 'Standby'. All Standby attendees may arrive on the Orientation date, and if there are spaces open in the classroom 10 minutes after the start of Orientation, any standby attendees may take those seats. Standby attendees will be seated on a first come, first served basis. All standby attendees will have their certificates of completion mailed to them. All Standby attendees are still required to signup for the next available Orientation date upon joining the Board, but upon an earlier completion of Orientation via standby, the existing signup will be removed.

### Section 6.2: MLS System Classes

**Date of Adoption/Modification/Readoption: February 12, 2009**

MLS System Classes are recommended for all new Participants of the MLS system. We offer a basic introductory class, an advanced class and a class for the optional offline MLS program. Most classes are available on a weekly basis. Schedules are located in the SWMLS offices and on the front page of the MLS system. All MLS system classes are free of charge, and signup is required prior to attendance. Class signups are closed 1 hour prior to the start of the class. Any attendees arriving more than 5 minutes late will not be guaranteed a seat. Any attendees arriving more than 10 minutes late will be denied entry and rescheduled if possible.

Attendance of the introductory MLS system class is required prior to admittance into an advanced or offline MLS class. This requirement can be waived by SWMLS staff upon request and verification that User has knowledge equal to what is taught in the introductory class. Waiver is not recommended.

If desired, MLS Participants may choose to go on 'Standby' if the class they wish to attend is full, or they have missed the signup deadline. All Standby attendees may arrive on the class date, and if there are spaces open in the classroom 5 minutes after the start of the class, any standby attendee may take those seats.

**NO SHOW POLICY:** Twenty-four (24) hour notification is required for the cancellation of any class. If SWMLS is not notified of a cancellation and the member does not attend the scheduled class, a fine of \$50.00 will be immediately issued and will be billed on his/her next monthly statement.

### **Section 6.3: Waiver from MLS**

**Date of Adoption/Modification/Readoption: August 2011** (*Transferred from SWMLS Rules & Regulations*)

A Service Participant may request a voluntary waiver for a subscriber under the following criteria: (No waivers shall be granted to Participants)

- Illness-long term duration
- Out of area
- Exclusive tract sales associate
- Subscriber is engaged solely and exclusively in a specialty of real estate business separate and apart from listing or selling or leasing or appraising the type of properties which are required to be electronically filed with The Service.

Waiver requests must be submitted in writing to the Service by the Participant to be considered by the Board of Directors of The Service or their designee. The Participant and Subscriber(s) may appeal decisions regarding denial of waiver to the Executive Committee of The Service.

## Chapter 7: Virtual Office Websites

### Section 7.1: Definitions & Scope of Policy

**Date of Adoption/Modification/Readoption: February 12, 2009**

For purposes of this Policy, the term Virtual Office Website (“VOW”) refers to a Participant’s Internet website, or a feature of a Participant’s Internet 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 data, subject to the Participant’s oversight, supervision, and accountability.

- A. A Participant may designate an Affiliated VOW Partner (“AVP”) to operate a VOW on behalf of the Participant, subject to the Participant’s supervision and accountability and the terms of this Policy.
- B. A non-principal broker or sales licensee, affiliated with a Participant, may, with the Participant’s consent, operate a VOW or have a VOW operated on its behalf by an AVP. Such a VOW is subject to the Participant’s supervision and accountability and the terms of this Policy.
- C. Each use of the term “Participant” in this Policy shall also include a Participant’s non-principal brokers and sales licensees (with the exception of references in this section to the “Participant’s consent” and the “Participant’s supervision and accountability,” and in section III.10.a, below, to the “Participant acknowledges”). Each reference to “VOW” or “VOWs” herein refers to all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an AVP.
- D. The right to display listings in response to consumer searches is limited to display of MLS data supplied by the MLS(s) in which the Participant has participatory rights. This does not preclude a firm with offices participating in different MLSs from operating a master website with links to such offices’ VOWs.
- E. Participants’ Internet websites, including those operated for Participants by AVPs, may also provide other features, information, or services in addition to VOWs (including the Internet Data Exchange (“IDX”) function).
- F. The display of listing information on a VOW does not require separate permission from the Participant whose listings will be available on the VOW.
- G. Except as permitted in Sections III and IV, MLSs may not adopt rules or regulations that conflict with this Policy or that otherwise restrict the operation of VOWs by Participant.



## **Section 7.2: Policies Applicable to Participants' VOWs**

**Date of Adoption/Modification/Readoption: February 12, 2009**

- A. A Participant may provide brokerage services via a VOW that include making MLS active2 listing data available, but only to consumers with whom the Participant has first established a lawful consumer-broker relationship, 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 agreement(s).
- B. A Participant's VOW must obtain the identity of each Registrant and obtain each Registrant's agreement to Terms of Use of the VOW, as follows:
- a. A Registrant must provide his or her name and a valid email address. 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 c below). The Registrant may be permitted to access the VOW only after the Participant has verified that the email address provided is valid and that Registrant received the Terms of Use confirmation.
  - b. The Registrant must supply a user name and a password, the combination of which must be different from those of all other Registrants on the VOW, before being permitted to search and retrieve information from the MLS database via the VOW. The user name and password may be established by the Registrant or may be supplied by the Participant, at the option of the Participant. An email address may be associated with only one user name and password. The Registrant's password and access must expire on a date certain but may be renewed. The Participant must at all times maintain a record of the name and email address supplied by the Registrant, and the username and current password of each Registrant. Such records must be kept for not less than 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 the data or a violation of MLS rules related to use by one or more Registrants, the Participant shall, upon request, provide to the MLS a copy of the record of the name, email address, user name, current password, and audit trail, if required, of any Registrant identified by the MLS to be suspected of involvement in the violation.
  - c. The Registrant must be required affirmatively to express agreement to a "Terms of Use" provision that requires the Registrant to open and review an agreement that provides at least the following:
    - i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
    - ii. That all data obtained from the VOW is intended only for the Registrant's personal, non-commercial use;

- iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
- iv. That the Registrant will not copy, redistribute, or retransmit any of the data or information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property;
- v. That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.

After the Registrant has opened for viewing the Terms of Use agreement, a "mouse click" is sufficient to acknowledge agreement to those terms. 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.

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.

- d. An 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.
- C. A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about properties 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.
- D. A Participant's VOW must protect the MLS data from misappropriation by employing reasonable efforts to monitor for and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.
- E. A Participant's VOW must comply with the following additional requirements:
- a. No VOW shall display listing or property address of any seller who have affirmatively directed its listing broker to withhold its listing or property address from display on the Internet. The listing broker or agent shall communicate to the MLS that a 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 listing or property address of a seller who has determined not to have the listing or address for its property displayed on the Internet.

- b. A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that conforms to the form attached to this Policy as Appendix A. The Participant shall retain such forms for at least one year from the date they are signed.
- c. With respect to any VOW that:
  - i. 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
  - ii. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

the VOW shall disable or discontinue either or both of those features as to the seller's listing 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 Participants' websites. Except for the foregoing and subject to subparagraph (d), a Participant's VOW may communicate the Participant's professional judgment concerning any listing.

Nothing shall prevent a VOW from notifying its customers that a particular feature has been disabled "at the request of the seller."

- d. A VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the VOW operator beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The VOW operator 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 that property explaining why the data or information is false. However, the VOW operator shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.
- e. Each VOW shall refresh MLS data available on the VOW not less frequently than every 3 days.
- f. Except as provided elsewhere in this Policy or in MLS rules and regulations, no portion of the MLS database may be distributed, provided, or made accessible to any person or entity.
- f. Except as provided elsewhere in this Policy or in MLS rules and regulations, no portion of the MLS database may be distributed, provided, or made accessible to any person or entity.
- g. Every VOW must display a privacy Policy that informs Registrants of the ways in which information obtained from them will be used.

- h. A VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, or whether the listing broker is a Realtor®.
- F. A Participant who intends to operate a VOW 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 this Policy and any other applicable MLS rules or policies.
- G. A Participant may operate more than one VOW itself or through an AVP. A Participant who operates a VOW itself shall not be precluded from also operating VOWs in conjunction with AVPs.

## **Section 7.3: Policies Applicable to Multiple Listing Services**

**Date of Adoption/Modification/Readoption: February 12, 2009**

- A. A Multiple Listing Service shall permit MLS Participants to operate VOWs, or to have VOWs operated for them by AVPs, subject to the requirements of state law and this Policy.
- B. An MLS shall, if requested by a Participant, provide basic “downloading” of all MLS non-confidential listing data, including without limitation address fields, listings types, photographs, and links to virtual tours. Confidential data includes only that which Participants are prohibited from providing to customers orally and by all other delivery mechanisms. They include fields containing the information described in paragraph IV(1) of this Policy, provided that sold data (i.e., listing information relating to properties that have sold) shall be deemed confidential and withheld from a download only if the actual sales prices of completed transactions are not accessible from public records. For purposes of this Policy, “downloading” means electronic transmission of data from MLS servers to a Participant’s or AVP’s server on a persistent basis. An MLS may also offer a transient download. In such case, it shall also, if requested, provide a persistent download, provided that it may impose on users of such download the approximate additional costs incurred by it to do so.
- C. This Policy does not require an MLS to establish publicly accessible sites displaying Participants’ listings.
- D. If an MLS provides a VOW-specific feed, that feed must include all of the non-confidential data included in the feed described in paragraph 2 above except for listings or property addresses of sellers who have elected not to have their listings or addresses displayed on the Internet.
- E. An MLS may pass on to those Participants who will download listing information the reasonably estimated costs incurred by the MLS in adding or enhancing its “downloading” capacity to enable such Participants to operate VOWs.
- F. An MLS may require that Participants (1) utilize appropriate security protection, such as firewalls, as long as such requirement does not impose security obligations greater than those employed concurrently by the MLS, and/or (2) maintain an audit trail of Registrants’ activity on the VOW and make that information available to the MLS if the MLS has reason to believe that any VOW has caused or permitted a breach in the security of the data or a violation of applicable MLS rules.
- G. An MLS may not prohibit or regulate display of advertising or the identification of entities on VOWs (“branding” or “co-branding”), except to prohibit deceptive or misleading advertising or co-branding. For purposes of this provision, 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 by or for 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 thirdparty.

- H. Except as provided in this Policy, an MLS may not prohibit Participants from enhancing their VOWs by providing information obtained from sources other than the MLS, additional technological services (such as mapping functionality), or information derived from non-confidential MLS data (such as an estimated monthly payment derived from the listed price), or regulate the use or display of such information or technological services on any VOW.
- I. Except as provided in generally applicable rules or policies (such as the Realtor® Code of Ethics), an MLS may not restrict the format of data display on a VOW or regulate the appearance of VOWs.
- J. Subject to the provisions below, an MLS shall make MLS listing data available to an AVP for the exclusive purpose of operating a VOW on behalf of a Participant. An MLS shall make MLS listing data available to an AVP under the same terms and conditions as those applicable to Participants. No AVP has independent participation rights in the MLS by virtue of its right to receive data on behalf of a Participant, or the right to use MLS data except in connection with operation of a VOW for a Participant. AVP access to MLS data is derivative of the rights of the Participant on whose behalf the AVP is downloading data.
  - a. A Participant, non-principal broker or sales licensee, or AVP may establish the AVP's right to receive and use MLS data by providing to the MLS a writing in which the Participant acknowledges its or its non-principal broker's or sales licensee's selection of the AVP to operate a VOW on its behalf.
  - b. An MLS may not charge an AVP, or a Participant on whose behalf an AVP operates a VOW, more than a Participant that chooses to operate a VOW itself (including any fees or costs associated with a license to receive MLS data, as described in (g), below), except to the extent that the MLS incurs greater costs in providing listing data to the AVP than the MLS incurs in providing listing data to a Participant.
  - c. An MLS may not place data security requirements or restrictions on use of MLS listing data by an AVP that are not also imposed on Participants.
  - d. An MLS must permit an AVP to download listing information in the same manner (e.g., via a RETS feed or via an FTP download), at the same times and with the same frequency that the MLS permits Participants to download listing information.
  - e. An MLS may not refuse to deal directly with an AVP in order to resolve technical problems with the data feed. However, the MLS may require that the Participant on whose behalf the AVP is operating the VOW participate in such communications if the MLS reasonably believes that the involvement of the Participant would be helpful in order to resolve the problem.

- f. An MLS may not condition an AVP's access to a data feed on the financial termson which the AVP provides the site for the Participant.
- g. An MLS may require Participants and AVPs to execute license or similar agreements sufficient to ensure that Participants and AVPs understand and agree that data provided by the MLS may be used only to establish and operate a VOW
- h. An MLS may not:
  - i. prohibit an AVP from operating VOWs on behalf of more than one Participant, and several Participants may designate an AVP to operate a singleVOW for them collectively,
  - ii. limit the number of entities that Participants may designate as AVPs for purposes of operating VOWs, or
  - iii. prohibit Participants from designating particular entities as AVPs except that, if an AVP's access has been suspended or terminated by an MLS, that MLS may prevent an entity from being designated an AVP by another Participant during the period of the AVP's suspension or termination.
- i. Except as stated below, an MLS may not suspend or terminate an AVP's access to data:
  - i. for reasons other than those that would allow an MLS to suspend or terminate a Participant's access to data, or
  - ii. without giving the AVP and the associated Participant(s) prior notice and the process set forth in the applicable provisions of the MLS rules for suspension or termination of a Participant's access.
- j. Notwithstanding the foregoing, an MLS may immediately terminate an AVP's access to data:
  - i. if the AVP is no longer designated to provide VOW services to any Participant,
  - ii. if the Participant for whom the AVP operates a VOW ceases to maintain its status with the MLS,
  - iii. if the AVP has downloaded data in a manner not authorized for Participants and that hinders the ability of Participants to download data, or
  - iv. if the associated Participant or AVP has failed to make required payments to the MLS in accordance with the MLS's generally applicable payment policies and practices.
- K. An MLS may not prohibit, restrict, or impede a Participant from referring Registrants to any person or from obtaining a fee for such referral.

## Section 7.4: Requirements that MLSs May Impose on the Operation of VOWs and Participants

**Date of Adoption/Modification/Readoption: February 12, 2009**

- A. An MLS may impose any, all, or none of the following requirements on VOWs but may impose them only to the extent that equivalent requirements are imposed on Participants' use of MLS listing data in providing brokerage services via all other delivery mechanisms:
- a. A Participant's VOW may not make available for search by or display to Registrants the following data intended exclusively for other MLS Participants and their affiliated licensees:
    - i. expired, withdrawn, or pending listings
    - ii. sold data unless the actual sales price of completed transactions is accessible from public records
    - iii. the compensation offered to other MLS Participants
    - iv. the seller(s) and occupant(s) name(s), phone number(s) and email address(es), where available
    - v. Instructions or remarks intended for cooperating brokers only, such as those regarding showing or security of the listed property.
  - b. The content of MLS data that is displayed on a VOW may not be changed from the content as it is provided in the MLS. MLS data may be augmented with additional data or information not otherwise prohibited from display as long as the source of such other data or information is clearly identified. This requirement does not restrict the format of MLS data display on VOWs or display of fewer than all of the listings or fewer authorized data fields.
  - c. There shall be a notice on all MLS data displayed indicating that the data is deemed reliable but is not guaranteed accurate by the MLS. A Participant's VOW may also include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.
  - d. Any listing displayed on a VOW shall identify the name of the listing firm in a readily visible color, and reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.
  - e. The number of current or, if permitted, sold listings that Registrants may view, retrieve, download on or from a VOW in response to an inquiry may be limited to a reasonable number. Such number shall be determined by the MLS, but in no event may the limit be fewer than 100 listings or 5% of the listings in the MLS, whichever is less.
  - f. Any listing displayed on a VOW shall identify the name of the listing agent.



- B. An MLS may also impose the following other requirements on the operation of VOWs:
- a. Participants displaying other brokers' listings obtained from other sources, e.g., other MLSs, non-participating brokers, etc. shall display the source from which each such listing was obtained.
  - b. A maximum period, no shorter than 90 days and determined by the MLS, during which Registrants' passwords are valid, after which such passwords must be changed or reconfirmed.
- C. An MLS may not prohibit Participants from downloading and displaying or framing listings obtained from other sources, e.g., other MLSs or from brokers not participating in that MLS, etc., but may require either:
- a. that such information be searched separately from listings obtained from other sources, including other MLSs, or
  - b. if such other sources are searched in conjunction with searches of the listings available on the VOW, require that any display of listings from other sources identify such other source.