

**SOUTHEAST ARIZONA MULTIPLE LISTING SERVICE, INC.  
125 S. 2ND STREET  
SIERRA VISTA, ARIZONA 85635**

**BYLAWS  
AMENDED APRIL 29, 2015**

**ARTICLE I - NAME**

Section 1. Name

The name of this organization is the Southeast Arizona Multiple Listing Service, Inc., hereinafter referred to as the Service.

Section 2. Gender

The words "he", "his" and "him" as used in these Bylaws shall be deemed to refer to both the masculine and feminine gender and shall include the words "she", "hers" and "her".

**ARTICLE II - PURPOSE**

The purpose of the Service is to provide a means by which

- (1) Participants make blanket unilateral offers of compensation to other Participants (acting either as buyer agents, or other agency or non-agency capacities defined by law); by which cooperation among Participants is enhanced;
- (2) information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses and other valuations of real property for bona fide clients and customers by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating Broker's performance as a procuring cause of the sale (or lease).
- (3) Use of information developed by or published by the Service is strictly limited to the activities authorized under a Participant's license(s) or certification. Unauthorized use or dissemination of information is prohibited.
- (4) Further, none of the foregoing is intended to convey any right of access to information developed by or published by the Service where access to such information is prohibited by law.

**ARTICLE III - PARTICIPANTS**

Section 1. Definition

A Participant to the Service is (1) REALTOR® Designated Broker, (2) a licensed or certified Appraiser of any firm, partnership, or corporation. A Participant must meet the participation requirements stated in Article III, Section 2 of this document.

## Section 2. Participation:

Any REALTOR® of this or any other Multiple Listing Service who is a principal, partner, corporate officer, 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 real estate 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 a Multiple Listing Service is strictly limited to the activities authorized under a User'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 a Association Multiple Listing Service where access to such information is prohibited by law.

The requirements for participation in the Multiple Listing Service may be modified either by an appropriate amendment to these bylaws or by amending and adding the new requirements as part of the Policy Statements of the Multiple Listing Service.

Note: Mere possession of a 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 on-going 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 on a nondiscriminatory manner to all Participants and potential Participants.

## Section 3. Obligations

All Participants shall have all rights, benefits, and privileges of the Service. The Participant shall be responsible to the Service for all real estate salespersons and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or (2) are otherwise directly or indirectly licensed with such Participant's firm, partnership, or corporation. All persons so described shall comply with the Bylaws, Rules and Regulations and written Policies of the Service.

All REALTOR® Participants shall agree to abide by the Code of Ethics of the National Association of

REALTORS® and the Multiple Listing Service Standards of Conduct and the Multiple Listing Service Policy Statements as from time to time amended.

#### Section 4. Application

Application for use of the Service shall be made on such form(s) as may be required by the Board of Directors of the Service.

Former Participants may reapply to the Service by making formal application in the manner prescribed for new applicants provided that all past fees and other financial obligations are paid in full.

#### Section 5. Discontinuance of Service

Participants of the Service may discontinue the Service by giving the Service thirty (30) days written notice.

#### Section 6. Service Area

The area within which the Service shall function shall at all times be coextensive with or within the territorial jurisdiction of the Southeast Arizona Association of REALTORS®, Inc.

### **ARTICLE IV - FEES AND OTHER FINANCIAL OBLIGATIONS**

Fees and other costs for use of the Service shall be as determined, and as amended from time to time, by the Board of Directors of the Service.

#### Section 1. Application Fee

The Board of Directors may adopt an application fee for Participants which shall accompany each application.

#### Section 2. Annual Participant and User Fees

The fee for each Participant and User shall be established annually by the Board of Directors. Payment of the User fee shall be the responsibility of the Participant and the total amount shall be the individual user fee times the number of real estate salespersons and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or (2) are otherwise directly or indirectly licensed with such Participant Member times the User Fee. For Participants/Users affiliated with offices located outside the SAMLs jurisdiction please refer to SAMLs Rules & Regulations, Section 6.1 C.

#### Section 3. Fees Payable.

Fees for all Participants shall be due and payable in advance. The Service Policy Statements shall set the manner in which fees are prorated and paid. Notice shall be given to Participants in writing setting forth the amount owed and the due date.

#### Section 4. Non-payment of Financial Obligations

Participants are subject to specific penalties for non-payment of all or part of the financial obligations owed to the Multiple Listing Service per the Policy Statements. All financial obligations which are not paid when due shall be subject to a late penalty and/or suspension until such time as the fees are paid. However, no action shall be taken to suspend or terminate for nonpayment of disputed amounts, until the accuracy of

the amount owed has been confirmed by the Board of Directors. A Participant who has been terminated for nonpayment of other financial obligations levied in accordance with the provisions of these Bylaws or the provisions of other Rules and Regulations may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination. (Amended 3/2015)

## **ARTICLE V - GOVERNMENT OF THE SERVICE**

### Section 1. Stock in the Service

All the share(s) of stock issued by the Service are solely and wholly-owned by the Southeast Arizona Association of REALTORS®, Inc.

### Section 2. The Board of Directors

(a) Elected officers of the Board of Directors of the Southeast Arizona Multiple Listing Service shall be MLS President, MLS President-Elect, and Treasurer. The MLS President and MLS President-Elect shall serve one year terms and the Treasurer shall serve a two (2) year term. The Treasurer shall be the elected Treasurer of the Southeast Arizona Association of REALTORS®. The MLS President and MLS President-Elect of the MLS shall serve as directors of the Southeast Arizona Association of REALTORS® and shall be elected at the same time as Officers and Board of Directors members of the Southeast Arizona Association of REALTORS® using the same vote procedures as the Association except as noted in section (a) (1).

(1) Directors of the Southeast Arizona Association of REALTOR® s shall serve as members of the Board of Directors of the MLS. All Officers and Directors of the SERVICE shall be members in good standing of the Southeast Arizona Association of REALTOR® s and the Southeast Arizona Multiple Listing Service.

(b) Participants of the Service who are not members of the Southeast Arizona Association of REALTOR® S® shall have voting privileges for MLS President, MLS President-Elect and all officers and directors of the Southeast Association of REALTOR® S®, Inc. Each Participant shall have one vote. (Amended 8/2014)

(c) The MLS President, and MLS President-Elect shall be licensed as a Real Estate Broker, Associate Broker in the State of Arizona or have been a member of the Southeast Arizona Association of REALTOR® s® Inc. no less than three (3) continuous years and have served as a Director for at least one (1) year and hold a National Association of REALTOR® s® sanctioned designation. (Amended 8/2014)

(c) The President-Elect, upon completion of his or her term of office, shall succeed to the Presidency to serve for one year. (Amended 8/2014)

(e) Each REALTOR® Association that contracts for the Southeast Arizona Multiple Listing Service to provide primary MLS services for its participants may, subject to the approval of the Board of Directors of the Service, be entitled to representation on the Board of Directors, one Director per Association. This representative:

(1) may be elected or appointed by his Board or Association.

(2) shall be a REALTOR® in good standing of his organization.

(3) shall have full voting rights but no right of ownership of the Service or the assets thereof.

(4) shall serve for a term of one year beginning January 1st of each year.

(5) shall abide by the Bylaws and Policy Statements of the Southeast Arizona Multiple Listing Service. (Amended 3/2015)

### Section 3. Responsibilities and Obligations

The Board of Directors shall administer all phases of management of the Service's business, including the adoption of necessary Rules and Regulations and written Policy Statements and the levy of fines and in the enforcement thereof.

(a) At all meetings of the Board of Directors of the Service each director present shall be entitled to one (1) vote.

(b) All monies received by the Service for any purpose shall be deposited to the credit of the Service in a financial institution or institutions selected by resolution of the Board of Directors.

(c) The Board of Directors shall administer the day-to-day finances of the Southeast Arizona Multiple Listing Service, Inc. All capital expenditures shall be approved by a majority vote of the members of the Board of Directors.

(d) The Board of Directors shall, prior to the end of each fiscal year, prepare a budget reflecting projected costs and expenses of the Service for the next fiscal year, indicating projected income from all sources. The budget shall be approved not less than thirty (30) days prior to the first day of the next fiscal year.

(e) Removed 3/2015

(f) Removed 3/2015

(g) The Board of Directors shall employ such executive, legal, and office personnel as it deems necessary to care for and maintain the properties of the Service and otherwise conduct the administrative business of the Service.

(h) The Board of Directors shall have the power to adopt such Rules and Regulations and written Policies as they may deem appropriate.

(i) Except as otherwise provided in the Bylaws, Rules and Regulations and written Policies, the action of the Board of Directors shall be final.

## ARTICLE VI - MEETINGS

### Section 1. Meetings of the Directors

(a) The Board of Directors shall designate a regular time and place of meetings to be held monthly. Absence from three regular meetings in one calendar year shall be construed as a resignation. A quorum for the transaction of business shall be one-half of the number of Directors. (Amended 3/2015)

(b) Special Meetings. Special meetings of the Board of Directors may be called from time to time by the President or by a quorum of the Board of Directors. Written notice stating the day, place and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered to all Directors and Participants not less than one (1) week prior to said meeting.

(c) Emergency Directors Meetings. In the event of an emergency as determined by the President or the Executive Officer of the Southeast Arizona Multiple Listing Service, Inc, there shall be a minimum of twenty-four (24) hours' notice of an emergency meeting given to the Board of Directors and the Participants. Such notice need not be in writing. A quorum for an emergency meeting shall be one-half of the Board of Directors.

Section 2. Multiple Listing Service Membership Meetings. Each area represented by an Association shall establish an individual policy for regular meetings of their membership for the exchange of information on new listings, etc.

## **ARTICLE VII – COMMITTEES/ORIENTATION**

### Section 1. Special Committees, Working Groups, and Task Forces

(a) The President shall appoint, subject to confirmation by the Board of Directors, Special Committees and Working Groups as he may deem necessary.

(b) The President at his discretion may appoint one or more persons as a Task Force to investigate a matter and report to him without the approval of the Board of Directors.

(c) The President may remove the Chairman or any member of a Task Force, Special Committee, or Working Group of the Service with notice to the Board of Directors.

### Section 2. Organization

All Committees shall have such duties, functions and powers as assigned by the President or the Board of Directors, All committees shall have not less than three (3) members. All committee members shall be Participants or licensees affiliated with Participants.

### Section 3. Orientation

All applicants for SAMLs membership must complete the next subsequent Orientation class following the date of application. See Policy Statement #7-1. (Amended 3/2015)

## **ARTICLE VIII – FISCAL YEAR (Amended 3/2015)**

### Section 1. Fiscal Year.

The fiscal year of the Service shall be from July 1 to June 30 of each year.

Section 2. Days. When used in these Bylaws "days" shall mean calendar days.

Section 3: Fiscal Administration. The Board of Directors shall administer the finances of the Southeast Arizona Association of REALTOR® S® per the Policy Statements.

Section 4: Capital Expenditures. All capital expenditures shall be approved in advance by a majority vote of the Board of Directors.

Section 5: Ability to Incur Debt or Make Loans.

(a) The Board of Directors of the Southeast Arizona Multiple Listing Service may not incur debt on behalf of the Service in an amount greater than \$50,000 without approval of a majority of a quorum of the membership of the MLS.

(b) The Board of Directors of the Southeast Arizona Multiple Listing Service may not make loans in the amount greater than \$10,000 without approval of a majority of a quorum of the membership of the MLS.

## **ARTICLE IX – RULES OF ORDER AND NOTIFICATION**

### Section 1. Rules of Order

Robert's Rules of Order, latest edition, shall be recognized as the authority governing the meeting of the Service, its Board of Directors, and Committees, in all instances wherein its provisions do not conflict with these Bylaws.

### Section 2. Notification

Notification. Unless otherwise specified, "announce", "distribute", "disseminate" and "written notice" herein may be interpreted as printed information in the official Service publication.

## **ARTICLE X-AMENDMENTS**

### Section 1. Effective Date

Amendments to these Bylaws shall be made by majority vote of the Board of Directors. Amendments shall be effective immediately or as stated in the amending resolution.

### Section 2 Mandatory Changes

Amendments to these Bylaws that are mandatory changes required by the NATIONAL ASSOCIATION of REALTORS® shall be incorporated herein, upon further approval of the Board of Directors.

## **ARTICLE XI – DISSOLUTION**

In the event this Service shall at any time terminate its activities, the Board of Directors of the Service shall adopt a plan of liquidation and dissolution. The plan shall provide for the collection of assets, the payment of liabilities, and any remaining assets shall be assigned to the parent corporation, namely, the Southeast Arizona Association of REALTORS®, Inc.

## **ARTICLE XII - INDEMNIFICATION**

The Corporation shall indemnify, upon the terms hereinafter set forth, any person who incurs expenses or losses by reason of the fact he is or was an officer, director, employee, committee person, or agent of the

corporation, acting on behalf of the corporation at the time of the alleged act in question (hereinafter referred to as "indemnitee"). This shall apply in all circumstances in which indemnification is permitted by law, including those circumstances where indemnity is permissible pursuant to Arizona Revised Statutes § 10-005.

Subject to the further provisions hereof, the Corporation shall indemnify any and all indemnitees against all expenses and loss incurred by them and each of them, including but not limited to legal fees, judgments, penalties, and amounts paid in settlement or compromise, which may arise or be incurred, rendered, or levied in any legal action brought or threatened against any of them for or on account of any action or omission alleged to have been committed while acting within the scope of employment as director, officer, employee, committee member or agent of the corporation, while acting on behalf of the corporation at the time of the alleged act in question, whether or not any action is or has been filed against them and whether or not any settlement or compromise is approved by a court. Whenever any indemnitee shall report to the President of the Board of Directors that he has incurred or may incur any such expense or loss for or on account of any action or omission alleged to have been committed by him while acting as an indemnitee of the corporation, the Board of Directors shall consider the issue at a reasonable time thereafter. Such indemnitee shall be indemnified against all expense and loss if the Board at such meeting in the action or contemplated action, shall determine that the indemnitee acted reasonably and reasonably believed his actions or failure to act was in the best interest of the Corporation and in the case of criminal action or proceedings, has no reasonable cause to believe the conduct was unlawful at the time, then indemnification shall be granted. Provided, however, that as a condition of indemnification, the indemnitee shall notify the Corporation of any claim or potential claim within sixty (60) days after first becoming aware of the same, and shall permit the Corporation, at its sole expense and through counsel of its choice, to represent and defend the indemnitee in connection with such claim, and shall fully cooperate with the Corporation and its counsel in said defense. The Corporation shall have the right to refuse indemnification in any instance in which the indemnitee shall have failed to notify the Corporation of the claim as required or shall have refused to cooperate with the Corporation in the defense of the matter or refused to permit the Corporation, at its own expense and through counsel of its own choosing, to defend him in the action. Provided further, however, that the Board of Directors may, at its option and in its sole discretion, elect to provisionally retain counsel and investigate such claims or potential claims and/or defend the same, reserving its right to refuse indemnification and withdraw such defense, in the event it is later determined that the indemnitee is not entitled to indemnification under the terms of this provision. If the Board of Directors elects to proceed under a reservation of rights, it shall notify the person in writing of its intent to proceed under a reservation of rights.

### **ARTICLE XIII - RESERVE ACCOUNTS**

Section 1. The Multiple Listing Service shall have a Reserve Fund for special operating purposes. Said fund shall be a segregated fund, placed at interest and any interest earned remaining in the fund. Amounts shall be deposited to the Reserve Fund in accordance with the Multiple Listing Service Policy Statements until such time that the balance in the Fund is no less than one half (½) the Multiple Listing Service annual budget. Funds shall be dispersed from the Reserve Fund in accordance with the Multiple Listing Service's Policy Statements.

Section 2. The Multiple Listing Service shall have a Capital Purchase, Replacement and Repair Fund. Amounts shall be allocated for the Capital Purchase, Replacement and Repair Fund in accordance with the Multiple Listing Service's Policy Statements until such time that the balance of the Fund is no less than \$10,000. Funds shall be dispersed from the Fund in accordance with the Multiple Listing Service's Policy Statements. (Amended 3/2015)

Section 3. (Removed 3/2015)

Section 4 (Removed 3/2015)

**ARTICLE XIV - EFFECTIVE DATE**

These Bylaws of the Southeast Arizona Multiple Listing Service, Inc. shall become effective 1 August 1994. (Amended 4/29/2015)

\_\_\_\_\_/S/ Robert Karp \_\_\_\_\_  
Robert Karp  
2015 President

\_\_\_\_\_/S/ Cindy Beeman \_\_\_\_\_  
Cindy Beeman  
Association Executive

\_4/29/15 \_\_\_\_\_  
Date

\_4/29/15 \_\_\_\_\_  
Date