

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

**MULTIPLE LISTING SERVICE  
RULES AND REGULATIONS**

**Amended/Revised/Approved (June 25, 2015)**

**PREFACE**

The Southeast Arizona Multiple Listing Service, Inc. is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which 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).

The name of this organization shall be the Southeast Arizona Multiple Listing Service, Inc., hereinafter referred to as the SERVICE, all the shares of stock of which are solely and wholly-owned by the Southeast Arizona Association of REALTORS®, Inc.

**Definition:**

**Participant:** A Participant to the SERVICE is a REALTOR® Designated Broker, or licensed or certified Appraiser of any firm, partnership, or corporation who meets the participation requirements stated in Article III, Section 2 of the Southeast Arizona Multiple Listing Service Bylaws.

**User:** A User of the SERVICE is all real estate salespersons and licensed or certified appraisers who are employed by or affiliated as independent contractors, or are otherwise directly or indirectly licensed with such Participant's firm, partnership, or corporation.

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### LISTING PROCEDURES

#### Section 1.0 - LISTING PROCEDURES

- (A) Listings for the sale, lease or exchange of real or personal property which are listed subject to a real estate broker's license, located within the State of Arizona taken by Participants on Southeast Arizona Multiple Listing forms shall be entered into the SERVICE within 48 hours after all necessary signatures have been obtained.
- (B) The SERVICE shall not require a Participant to submit listings on a listing form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the Service, although a property data form may be required as approved by the SERVICE. However, the SERVICE, through its legal counsel:
- (1) May reserve the right to refuse to accept a listing form which fails to adequately protect the interest of the public and the Participants.
  - (2) Assure that no listing filed with the SERVICE establishes, directly or indirectly, any contractual relationship between the SERVICE and the client (buyer or seller).
- (C) The SERVICE shall accept exclusive right to sell Employment Agreement and Exclusive Agency Employment Agreement, and may accept other forms of agreement which make it possible for the Listing Broker to offer cooperation and compensation to the other Participants of the SERVICE acting as Dual Agents or Buyer Agents. The employment agreement must include the seller's authorization to submit the information to the SERVICE.

The different types of agreements include:

- (1) EXCLUSIVE RIGHT TO SELL
- (2) EXCLUSIVE AGENCY

**(D)** The exclusive right to sell listing is the conventional type of listing submitted to the SERVICE in that seller authorizes the Listing Broker to cooperate with and to compensate other Brokers.

**(E)** The exclusive agency listing also authorizes the Listing Broker, as exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations.

**(F)** A MULTIPLE LISTING SERVICE does not regulate the type of listings its Participants may take. This does not mean that a SERVICE must accept every type of listing. The SERVICE shall decline to accept open listings and net listings and it may limit its service to listings of certain kinds of property. But if it chooses to limit the kind of listings it shall leave its Participants free to accept such listings to be handled outside the SERVICE. A SERVICE may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the SERVICE compilation of current listings. The SERVICE may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted except where required by law, because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

**(G)** The Service may request the Participant to supply to the Service a copy of the Listing Agreement and a copy of Listing Data form to verify accuracy of the submitted information. Upon request, the Participant will have one business day to submit the requested documents. If information is found to be inaccurate, the Participant will be notified and will have one business day to correct the information or the listing will be deleted.

**(H) TYPES OF PROPERTIES:** The following are some of the types of properties that may be handled through the Service:

- (1) Residential
- (2) Commercial
- (3) Land and Unimproved Lots
- (4) Farm and Ranch
- (5) Business Opportunity
- (6) Residential Income
- (7) Motel - hotel
- (8) Mobile Home parks
- (9) Industrial
- (10) Mobile and Manufactured homes

**(I) LIMITED SERVICE LISTINGS:** Listing Agreements under which the listing broker will not provide one, or more of the following services:

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

Limited Service Listings will be identified by checking 'yes' in the Limited Service Listing field and in the first line of the Addenda along with cooperating broker instructions so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property. A violation of this rule will result in a \$25.00 fine. If a second violation occurs within the same year a fine of \$50.00 will be incurred. If a third violation occurs within the same year a fine of \$100.00 will result and you will be required to appear at the next scheduled Board of Directors meeting.

**(J) AUCTION LISTINGS:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. The listings may be entered with a price of zero as long as Auction is indicated in the MLS listing.

Once the Auction occurs, the agent is required to change the List Price to the Auction Price and report the listing sold.

**(K) PHOTOGRAPHS:** Photographs may only depict the physical traits of the property for sale, any existing structures on that property, its vicinity or location, and must also comply with State and Federal law in all matters relating to the advertisement and sale of real property. Photos shall depict the actual property and views of the property, association amenities, and surrounding area. Any alteration of photos, photos of agents, their team, spouse, children or pets shall be a violation. No Real Estate signage is permitted in the photos. The photo description and caption shall include only descriptive information regarding the property. No added links, borders, banners, graphics, writing, logos, contact information or enhancements are acceptable and shall be considered a violation. If the home is currently under construction or the lot is meant for the construction of a single family home, the photo may show an un-enhanced artist's rendering of the home that is being built or that is to be built, or an actual floor plan of the home being built or to be built. Where the home is being built or is to be built and an artist's rendering is used in the advertisement, the advertisement shall have a banner on the photograph with the following words: "Artist Rendering Only".

**(L) PROPERTY DESCRIPTION:**

- (1) The Property Description shall include only descriptive information regarding the property.
- (2) Broker, Company or Agent branding, Web site address, e-mail address or phone numbers are not permitted in the Property Description Section.
- (3) All listing remarks must be in compliance with State and Federal Laws and the Fair Housing Act.

**(M) VERIFICATION OF LISTING INFORMATION:** The SERVICE may request a copy of the Employment Agreement (Listing Agreement), Data Forms, Exempt/Delayed Input Listing Form, Data Change Form from the Broker to ensure compliance with the Rules and Regulations. A copy of the Form(s) must be given to the SERVICE within one business day if requested.

**Section 1.1 LISTING SUBJECT TO RULES AND REGULATIONS OF THE SERVICE:** Any listing to be filed with the SERVICE is subject to the Rules and Regulations of the Service upon signature of the seller(s).

**Section 1.2 DETAIL ON LISTINGS:** The listing shall provide all information required by the State of Arizona Department of Real Estate to constitute a valid listing. A listing agreement and property data form, when filed with the SERVICE shall be complete and accurate in every detail which is ascertainable as specified on the property data form. The Broker is responsible for the input of his/her listing.

**Section 1.3 FOR COMPS ONLY:** When information is for comps only, the information given shall be the same as for all other listings. Participants are encouraged to add these listings upon closing to assist all Participants in market analysis information. All properties added for comps only shall be with the written permission of the Seller. Agent must put in the Agent Only Remarks section "For Comps Only".

**Section 1.4 CHANGE OF STATUS OF LISTING:** Any change in listing price or other change in the original listing agreement shall be made only when authorized in writing by the seller and the Participant, and shall be input within two (2) business days after the authorized change is received by the Listing Broker.

**Section 1.5 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Listings may be withdrawn from the SERVICE by the listing broker before the expiration date of the listing agreement. The Service may request a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

**Section 1.6 CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions in a listing shall be specified and noticed to the Participants.

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

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

**Section 1.9 NO CONTROL OR COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** the SERVICE shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants or between Participants and non-Participants or between cooperating Participants

**Section 1.10 EXPIRATION, EXTENSION, AND RENEWAL OF LISTINGS:** Any listing placed in the SERVICE automatically expires on the dates specified in the agreement, unless updated by the listing broker with the Service prior to expiration. If notice or renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be placed in the SERVICE. It should then be published as a new listing. Any extension or renewal of a listing must be signed by the seller(s).

**Section 1.11 TERMINATION DATE ON LISTING:** Property Data Forms shall bear a definite and final termination date as negotiated between the Listing Broker and the seller.

**Section 1.12 JURISDICTION:** Only listings of the designated types of property located within the State of Arizona are to be submitted to the Service. Listings taken on property located outside of the state of Arizona will not be accepted for publication in the MLS.

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

If a Participant has been suspended from the SERVICE for failure to pay appropriate dues, fees or charges, the SERVICE is not obligated to provide services, including continued inclusion of the suspended Participants listings in the SERVICE compilation of current listing information. Prior to any removal of a suspended Participants listings from the SERVICE, the suspended Participant shall be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

**Section 1.14 LISTINGS OF EXPELLED PARTICIPANTS:** When a Participant of the Service is expelled from the SERVICE for failing to abide by a Subscription duty (i.e., Code of Ethics, violation of the SERVICE Bylaws, SERVICE Rules and Regulations, or other Subscription obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the SERVICE shall, be withdrawn when the expulsion becomes effective. If a Participant has been expelled from the SERVICE for failure to pay appropriate dues, fees or charges, the SERVICE is not obligated to provide SERVICE services, including continued inclusion of the expelled Participants listings in the SERVICE compilation of current listing information. The expelled Participant shall be advised in writing of the intended removal so that the expelled Participant may advise his clients.

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

## **SELLING PROCEDURES**

**Section 2.0 SHOWINGS AND NEGOTIATIONS:** All appointments for showings and all negotiations with the seller for the purchase of listed property filed with the SERVICE shall be conducted through the Listing Broker, except under the following circumstances:

(A) The Listing Broker gives cooperating Broker specific authority to show and/or negotiate directly,

or:

(B) After reasonable effort, twenty-four (24) hours, the cooperating Broker cannot contact the Listing Broker or his representative, see or refer to R4-28-1102 of Commissioners Rules. However, the Listing Broker, at his option, may preclude such direct negotiations by cooperating Brokers.

**Section 2.1 PRESENTATION OF OFFERS:** The Listing Broker must make arrangements to present the offer as soon as possible, or give the cooperating Broker a satisfactory reason for not doing so.

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

**Section 2.3 DISCLOSING THE EXISTENCE OF OFFERS:** Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperative broker.

**Section 2.4 RIGHT OF COOPERATING BROKERS IN PRESENTATION OF OFFER:** The cooperating Broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is present, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing dismisses the listing broker's right to control the establishment of appointments for such presentations.

**Section 2.5 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFER:** The Listing Broker or his representative has the right to participate in the presentation of any counteroffer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee. However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counteroffer is presented, the Listing Broker has the right to a copy of the purchaser's or lessee's written instructions.

**Section 2.6 REPORTING SALES TO THE SERVICE:** Status changes, including final closing of sales, shall be reported to the SERVICE by the listing broker within 48 hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report the accepted offers to the listing broker within 24 hours after occurrence and the listing broker shall report them to the SERVICE within 24 hours after receiving notice from the cooperating broker.

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

**Section 2.7 REPORTING RESOLUTIONS OF CONTINGENCIES:** Contingencies that have been fulfilled, renewed or canceled shall be reported by the Listing Broker within twenty-four (24) hours of fulfillment, renewal or cancellation.

**Section 2.8 ADVERTISING OF LISTING FILED WITH THE SERVICE:** A listing shall not be advertised by any Participant, other than the Listing Broker, without the prior consent of the Listing Broker.

**(A)** Listings may be advertised on other broker/agent's internet websites if Listing Broker has so indicated on the profile sheet by selecting IDX Yes or IDX Yes without address. Brokers/Agents who advertise other real estate brokerage company's listings on their websites must complete the required agreement. Any violation of the terms in the agreement will be considered a violation of the MLS Rules and Regulations and will be subject to any penalties or sanctions provided for herein.

**Section 2.9 REPORTING CANCELLATION OF PENDING SALES:** The Listing Broker shall report within two business days to the SERVICE the cancellation of any pending sale and the listing shall be reinstated promptly, if not expired.

**Section 2.10 REPORTING OF ACCEPTED CONTRACTS TO THE SERVICE:** Accepted contracts shall be reported to the SERVICE by the Listing Broker within two (2) business days of acceptance by all parties to the transaction.

**Section 2.11 REPORTING OF WITHDRAWN LISTINGS:** Withdrawn listings shall be reported to the Service within two (2) business days.

**Section 2.12** If the Seller(s) requests that the input of the listing be delayed for any reason, an Exempt/Delayed Input Listing Form must be completed, signed and placed on file with the Listing Broker within one (1) business day of its signing by the seller(s).

**EXEMPT LISTINGS:** A seller may elect not to permit the listing to be disseminated by the Service. In such a circumstance, the Listing Broker may then take an Exclusive Right to Sell Employment Agreement or an Office Exclusive Listing with an Listing Agreement, which agreement will not be distributed to the Participants, provided a completed Exempt/Delayed Input Listing Form signed by the seller and the Listing Broker is placed on file with the Listing Broker within one (1) working day after all necessary signatures have been obtained by the Listing Broker. Cooperation is encouraged except when cooperation is not in the best interest of their client regardless of compensation. Active listings that have first been submitted as Exempt/Delayed listings will show the listing date as the Exempt/Delayed status expires and the listing is made available to the service for publication to the membership.

## **REFUSAL TO SELL**

**Section 3.0 Intentionally left blank.**

## **PROHIBITIONS**

**Section 4.0 INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with the Service shall not be made available to any Broker or Firm not a Member of the SERVICE without the prior consent of the Listing Broker.

**Section 4.1 "FOR SALE" SIGNS:** Only the "for sale" signs of the Listing Broker may be placed on the property.

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

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

**Section 4.4 USE OF THE TERMS MLS AND MULTIPLE LISTING SERVICE:** No MLS participant, Participant, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to Participant This does not prohibit Participant from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

## **DIVISION OF COMMISSIONS**

**Section 5.0 COMPENSATION SPECIFIED ON EACH LISTING:** The Listing Broker shall specify, on each listing and property data form the compensation offered to other SERVICE Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of sale (or lease.) The Listing Broker's obligation to compensate any cooperating broker as the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the Listing Broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to Cooperating Brokers that the commission established in the listing agreement might not be paid.

The Listing Broker retains the right to determine the amount of compensation offered to other Participants (acting as buyer agents, or in other agency or nonagency capacities defined by law) which may be the same or different.

In filing a property with the multiple listing service of an Association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS Participant and shall therefore specify of each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.

No references to commission or co-op fee splits, apportionments, or reductions are permitted in the MLS. In addition, documents, referencing commission or co-op fee splits, apportionments, or reductions are not permitted in the MLS. The cooperating brokers do retain the right to negotiate the commission/co-op fee outside of the MLS.

The compensation specified on listings filed with the SERVICE shall appear in one of two forms. The essential and appropriate requirement by a SERVICE is that the information to be published shall clearly inform the Participants as to the compensation they will receive as buyer's agents, in cooperative transactions unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the SERVICE shall be shown in one of the following forms:

1. By showing a percentage of the gross selling price
2. By showing a definite dollar amount (Amended 11/96)

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 11/95)

Note: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction.

**NOTE:** SERVICE may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the SERVICE unless otherwise defined by state law or regulation). (Adopted 5/08).

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

The listing broker retains the right to determine the amount of compensation offered to other participants (acting as buyer agents or in other agency or non-agency capacities defined by law):

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

Note 2: The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised.

Note 3: The multiple listing service shall make no rule on the division of commissions between participants and non-participants. This should remain solely the responsibility of the listing broker.

**Section 5.0.1 DISCLOSING POTENTIAL SHORT SALES:** The SERVICE must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of a sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Participants must disclose potential short sales when reasonably known to the listing Participant.

**Section 5.1 PARTICIPANT AS PRINCIPAL:** If a Participant, any licensee, or licensed certified appraiser affiliated with a Participant has any interest in a property, the listing of which is to be disseminated through the SERVICE, the Participant shall disclose that interest when the listing is filed with the SERVICE and such information shall be disseminated to all multiple listing participants..

**Section 5.2 PARTICIPANT AS PURCHASER:** If a Participant any licensee, or licensed certified appraiser affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such

contemplated interest shall be disclosed to the Listing Broker prior to or not later than time an offer to purchase is submitted to the listing broker.

**Section 5.3 DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS:** The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code or symbol as required by the SERVICE. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction, or alternatively in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

## **SERVICE CHARGES**

**Section 6.0 CHARGES AND FEES:** The SERVICE shall be operated as a wholly owned subsidiary of the Southeast Arizona Association of REALTORS®, Inc. to provide service to the Members of the SERVICE, based upon an approved annual budget of the Southeast Arizona Multiple Listing Service, Inc. The Board of Directors of the Southeast Arizona Multiple Listing Service, Inc. shall establish the fees for the year.

**Section 6.1 MULTIPLE LISTING SUBSCRIPTION FEE:** The following charges are in effect to defray the costs of the operation of SERVICE. These fees are subject to change.

**SCHEDULE OF CHARGES AND FEES:** The Board of Directors shall also announce the method, time and payment schedule of charges and fees. The Board of Directors shall develop the basic annual rates based upon one or more of the following:

**INITIAL MULTIPLE LISTING SERVICE SUBSCRIPTION FEE:** An initial service Subscription fee shall be an amount to be determined and announced annually by the Board of Directors. This fee shall accompany the Broker's application for the Southeast Arizona Multiple Listing Service, Inc., Subscription if the Broker desires to be a Service Participant. If a Participant is voluntarily terminated from the SERVICE Subscription, an additional fee will be required to reinstate Subscription in the SERVICE. Upon payment of this fee and acceptance to Subscription the Broker will receive his/her Identification and Code numbers for the computer terminal.

- (A) RECURRING SUBSCRIPTION FEE:** This fee shall be at a rate times each salesperson and licensed or certified appraiser, who has access to the use of this Service, whether licensed as a Broker or salesperson, or licensed or certified appraiser which is employed by or affiliated as an independent contractor with a Participant. Internal method of collection is at the Participants option. Secretaries and assistants who are licensed shall pay the same fees as other licensees.
- (B) Participant who belongs to another Multiple Listing Service whose office is located outside the jurisdiction of SAMLs or otherwise approved may join this Service with one or more salespersons or appraisers and shall pay a fee only for those who participate in this Service. Fees shall be the same as for other Participant to the Service. (See Sec. 7.1).**
- (C) LISTING FEE:** This fee shall be at a rate to be charged for each listing filed by a Participant with the SERVICE. Payment schedule (i.e., with listing or monthly) shall be announced with the use of this fee (if and when implemented).

**Section 6.2 PRO-RATED FEES AND CHARGES:** Members who join after the end of the first month of the annual billing cycle shall be charged fees on a pro-rated basis based upon the month joined. This pro-rated basis does not apply to the initial fee for a Broker who applies for Subscription in the SERVICE.

**Section 6.3 ANNOUNCEMENT OF FEES AND CHARGES:** The SERVICE fees and charges shall be announced by the Board of Directors of the Service prior to the start of the annual billing cycle and shall be paid in accordance with an announced schedule. These fees will be published and distributed separately as an Appendix to these Rules and Regulations.

**Section 6.4 SUBSCRIPTION FEE ASSESSMENT:** SERVICE subscription fees shall be assessed to each subscribing Participant member.

**Section 6.5 PARTICIPANT FEE ASSESSMENT:** Recurring Subscription fees, listing origination fees, charges, fees, etc., shall be assessed only to the SERVICE Participant. Payment of such fees may only be accepted from the SERVICE Participant and not from non-principal Brokers or sales licensees affiliated with the Participants with the exception that the User's initial subscription fees shall be paid by the User. None of the foregoing is intended to preclude the SERVICE Participant from being reimbursed by affiliated licensees for fees or charges incurred on their behalf pursuant to any in-house agreement that may exist.

## COMPLIANCE WITH RULES

**Section 7.0 COMPLIANCE WITH RULES:** The following action may be taken for noncompliance with the rules:

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

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

**Note:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Amended 3/15)

- (A) SERVICE fees which are not paid when due shall be subject to a late fee penalty and/or suspension of the SERVICE until such time as the fees are paid. If the fees are not paid within 15 days thereafter, the Participant shall pay a late fee penalty of \$25.00 per person billed to the Participant. If fees are not paid within 30 days of the original due date the Participant shall be notified that the use of the SERVICE shall be suspended. (See Section 1.13) –At the time fees are paid after suspension, the Participant shall also pay a re-connect fee of \$50.00. If service is suspended for 60 days, it shall be deemed that the Participant has resigned from the SERVICE (See Section 1.15). Participants shall then be required to re-enter membership as a new member.

If a Participant pays fees and the payment is made by a check which has insufficient funds, the Participant shall make the check good within five days of notification by the SERVICE and pay a returned check fee of \$50.00. If another check is received within six months which is made on insufficient funds, the Participant shall be required to pay all future fees for a period of two years in cash or with certified funds.

- (B) For failure to comply with MLS Rules and Regulations the Participant will be assessed a penalty of fifty dollars (\$50.00) for the first violation. A second notice will be sent 10 days after the initial notice. Failure to pay the penalty within 10 days after sending of the second notice will result in suspension of the SERVICE until corrections are made and the penalty is paid in full. A second violation within one (1) year from the date of your first offense will result in a one hundred dollar (\$100.00) assessed penalty. A second notice will be sent 10 days after the initial notice. Failure to pay the penalty within 10 days after sending of the second notice will result in suspension of the Service until corrections are made and the penalty is paid in full. Should a third violation occur within one (1) year from the date of your first offense a penalty of two hundred and fifty dollars (\$250.00) will result the Participant will be required to appear at the next scheduled Board of Directors meeting. A second notice will be sent 10 days after the initial notice. Failure to pay the penalty within 10 days after sending of the second notice will result in suspension of the Service until corrections are made and the penalty is paid in full. *See attached flow chart.*
- (C) For failure to comply with any other rule, discipline, and/or sanctions shall be sufficient to constitute a deterrent to violation of the Rules and Regulations of the SERVICE. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the Rules and Regulations of the Service.

**Section 7.1 APPLICABILITY OF RULES TO USERS AND/OR PARTICIPANTS:** Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the User or Participant has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any Users or Participant to abide by the Rules and/ or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all Agents or Participants affiliated with the Participant.

**Section 7.2** The Participant shall be responsible to the SERVICE for all real estate salespersons (Users) 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.

## MEETINGS

**Section 8.0 MEETINGS OF MULTIPLE LISTING SERVICE BOARD OF DIRECTORS:** The MULTIPLE

LISTING SERVICE Board of Directors shall meet for the transaction of its business at a time and place to be determined by the Board.

**Section 8.1 MEETINGS OF MULTIPLE LISTING SERVICES PARTICIPANTS:** The MULTIPLE LISTING SERVICE Board of Directors may call meetings of the Participants in the SERVICE from time to time, as needed to make decisions that affect the SERVICE.

**Section 8.2 CONDUCT OF THE MEETINGS:** The President, shall preside at all board meetings or, in his or her absence, the President-elect shall preside or as designated by the Executive Committee.

## **ENFORCEMENT OF RULES OR DISPUTES**

**Section 9.0 CONSIDERATION OF ALLEGED VIOLATIONS:** The SERVICE Board of Directors shall respond in writing to all written complaints having to do with violations of the Rules and Regulations.

**Section 9.1 VIOLATIONS OF RULES AND REGULATIONS:** If the alleged offense is a violation of the rules and regulations of the SERVICE and does not involve a charge of alleged violation of one or more of the provisions of Sections 15 and 16 of the rules and regulations or request for arbitration, it may be considered and determined by the Board of Directors of the MLS and if a violation is determined, the Board of Directors may direct the imposition of sanction provided that the recipient of such sanction may appeal it to the Professional Standards Committee of the Arizona Association of REALTORS® for a hearing by the Professional Standards Committee in accordance with the Bylaws of the Arizona Association of REALTORS®. Alleged violations of Sections 15 and 16 of the rules and regulations shall be referred to the Arizona Association's Grievance Committee for processing in accordance with the professional standards procedures of the Association.

For a period of five (5) years, the Board of Directors shall keep all records pertaining to any complaint filed or action taken against a Participant under these Rules & Regulations.

**Section 9.2 COMPLAINTS OF UNETHICAL CONDUCT:** All other complaints of unethical conduct shall be referred by the SERVICE Board of Directors to the Executive Officer of the Southeast Arizona Association of REALTORS®, Inc. for appropriate action in accordance with the Professional Standards procedures established in the Association's Bylaws.

## **CONFIDENTIALITY OF SERVICE INFORMATION**

**Section 10.0 CONFIDENTIALITY OF SERVICE INFORMATION:** Any information provided by the SERVICE to the Participants shall be considered official information of the SERVICE. Such information shall be considered confidential and exclusively for the use of Participants or those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and real estate licensees affiliated with such Participants.

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

**Section 10.2 STATISTICAL REPORTS:** Multiple Listing Services (MLSs) may, as a matter of local determination, make statistical reports, sold information, and other informational reports derived from the MLS available to REALTORS® who do not participate in the MLS but who are engaged in real estate brokerage, management, appraising, land development, or building. Additional expenses incurred in providing such

information to REALTORS® who do not participate in the MLS may be included in the price charged for such information. Any information provided may not be transmitted, retransmitted, or provided in any manner to any individual, office, or firm, except as otherwise authorized in the MLS rules and regulations.

MLSs may, as a matter of local determination, provide statistical reports, sold information, and other informational reports derived from the MLS to government agencies. MLSs may, as a matter of local discretion require that such agencies (or representatives of such agencies) hold an appropriate form of membership in the MLS or in the association of REALTORS® as a condition of such access. It is strongly recommended that any irrelevant information such as the names of current or former owners, or information concerning the sales commission or the compensation offered or paid to cooperating brokers be deleted.

## **OWNERSHIP OF MLS COMPILATIONS AND COPYRIGHTS**

**Section 11.0 OWNERSHIP OF SERVICE COMPILATION:** By the act of submitting any property listing content to the SERVICE, the Participant represents that he has been authorized to grant and also thereby does grant authority for the Service to include the property listing content in its copyrighted SERVICE compilation and also in any statistical report on "comparable." Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.

**Section 11.1 RIGHT, TITLE AND INTEREST:** All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Southeast Arizona Multiple Listing Service, Inc., and in the copyrights therein, shall at all times remain vested in the Southeast Arizona Multiple Listing Service, Inc.

**DEFINITION:** The term SERVICE compilation, as used in sections 11 AND 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants.

**Section 11.2- DISPLAY:** Each participant shall be entitled to lease from the Southeast Arizona Multiple Listing Service a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participants shall pay for each such copy the rental fee set by the association.\*\*

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

## **USE OF COPYRIGHTED MLS COMPILATIONS**

**Section 12.0 DISTRIBUTION OF COPYRIGHTED SERVICE COMPILATIONS:** Participants shall at all times maintain control over and responsibility for each copy of any SERVICE computer compilation, leased to them by the Southeast Arizona Multiple Listing Service, Inc., and shall not distribute any such copies to persons who are not affiliated with such Participant as licensees or those individuals who 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 SERVICE, is strictly limited to the activities authorized under a Participants licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Subscription", or "Subscription" or any right of access to information developed by or published by a SERVICE where access to such information is prohibited by law.

**Section 12.1 DISPLAY:** Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the SERVICE computer compilation to prospective purchasers only in conjunction with their

ordinary business activities of attempting to locate ready, willing, and able buyers or renters for the properties described in said SERVICE compilation.

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

Participants or their affiliated licensees may reproduce from the SERVICE compilation, and distribute to prospective purchasers or renter, a reasonable number of the single copies of property listing data contained in the SERVICE compilation which relate to any properties in which the prospective purchasers are, or may in the judgment of the Participants or their affiliated licensees, be interested.

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

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any SERVICE information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office or firm.

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

Participant and Users shall not copy or publish in their own listings or other promotional materials, photos, text, video or virtual tours entered into other agents listings without the express written consent of the listing agent.

## **USE OF MLS INFORMATION**

**Section 13.0 LIMITATIONS ON USE OF SERVICE INFORMATION:** Use of information from the SERVICE computer compilation of current listing information, from the Association's "statistical report," or from any "sold" or "comparable" report of the Association or SERVICE for public mass media advertising by a SERVICE Participant or in other public representations may not be prohibited. However, any print or non-print forms of advertising or other forms of public representation based in whole or in part on information supplied by the SERVICE must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

Based on information from the Southeast Arizona Multiple Listing Service for the period (date) through (date).

## **CHANGES IN RULES AND REGULATIONS**

**Section 14.0 CHANGES IN RULES AND REGULATIONS:** Changes to the Rules and Regulations of the Service shall be by a majority vote of the Board of Directors of the SERVICE.

## **ARBITRATION OF DISPUTES**

**Section 15.0 ARBITRATION OF DISPUTES:** This section intentionally left blank.

## **STANDARDS OF CONDUCT FOR MLS PARTICIPANTS:**

**Section 16** Left Intentionally blank (only used if MLS is open to non-REALTOR Participants)

## **ORIENTATION**

**Section 17 ORIENTATION:** Any applicant for MLS Subscription and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who desires access to MLS-generated information shall complete the next available SAMLs orientation program devoted to SAMLs Rules & Regulations and computer training related to MLS data entry at no cost, after access has been provided. A one-time waiver for extenuating circumstances may be given by the Association Executive or Association MLS Administrator, on a case-by-case basis, until the next subsequent orientation.

**Note:** Participants or Users who currently are members of another Realtor MLS in the state of Arizona when applying for membership in the SERVICE may fulfill the SAMLs orientation requirement by taking and passing a written test within 30 days after access to the MLS has been granted.

**Section 17.1** Failure to attend the first free scheduled orientation class will result in the member being charged \$50.00 to attend the next scheduled class, if a waiver was not granted for the first class. If a waiver was granted the class will be free. If 120 days elapse from the time of first membership without SAMLs orientation being completed, the Designated REALTOR, Designated Broker or Appraiser or user will be dropped from membership and no refund will be given.

**Section 17.2** Applicants who re-join within six months of terminating their membership, may be permitted a waiver of Orientation. Such waiver must be submitted in writing and be approved by the Board of Directors.

## INTERNET DATA EXCHANGE (IDX)

**Section 18 Definition.** IDX affords MLS Participant the ability to authorize limited electronic display of their listings by other participants.

**Section 18.1 Authorization.** Participants consent for display of their listings by other Participant pursuant to these rules and regulations must be established in writing. If a Participant withholds consent on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame or display the aggregated MLS data of other Participant. Even where Participants have given blanket authority for other Participants to display their listings on IDX sites, such consent may be withdrawn on a listings-by-listing basis where the seller has prohibited all internet display

**Section 18.2** Participation in IDX is available to all MLS participants who are REALTORS who are engaged in real estate brokerage who consent to display of their listings by other Participants.

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

**Section 18.2.2** MLS Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require Participant to pre prevent indexing of IDX listings by recognized search engines.

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

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

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

**Section 18.2.6** Except as provided in the IDX policy and these rules, an IDX site or a Participant or User operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity.

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

**Section 18.2.8** Any IDX display controlled by a Participant or User that

- (a) Allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

- (b) Displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

Either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by Participants. Except for the foregoing and subject to Section 18.2.9, a Participant's IDX display may communicate the Participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

**Section 18.2.9** Participants shall maintain a means (e.g., email address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

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

**Section 18.3** Display of listing information pursuant to IDX is subject to the following rules:

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

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

**Section 18.3.2** Participants shall not modify or manipulate information relating to other Participant's listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

**Section 18.3.3** All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of the listing data. Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc. of two hundred {200} characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

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

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

**Section 18.3.6** Intentionally left blank.

**Section 18.3.7** All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred {200} characters or less) are exempt from this requirement but All listings displayed pursuant to IDX shall identify the listing agent.

**Section 18.3.8** Participant (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect Users and/or the MLS from liability. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 05/12)

**Section 18.3.9** The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than one hundred (100) listings or five percent (5%) of the listings available for IDX display whichever is fewer. (Amended 11/09)

**Section 18.3.10** The right to display other Participant’s listings pursuant to IDX shall be limited to a Participants office(s) holding participatory rights in the MLS.

**Section 18.3.11** Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 11/14)

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

**Section 18.3.12** Display of expired, withdrawn, pending, and sold listings\* is prohibited (Amended 11/14)

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

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

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

**Section 18.3.15** This section intentionally left blank

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

**Section 18.4** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. (Adopted 11/01, Amended 5/05)

## **VIRTUAL OFFICE WEBSITE RULES**

### **Section 19**

#### **Section 19.1 Virtual Office Website Rules for MLS**

**(a)** A Virtual Office Website ("VOW") is a Participant's Internet website, or a feature of a Participant's website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant's oversight, supervision, and accountability.

**(b)** As used in Section 19 of these Rules, the term "Participant" includes a Participant's affiliated nonprincipal brokers and sales licensees – except when the term is used in the phrases "Participant's consent" and "Participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all Virtual Office Websites, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a Participant.

**(c)** "Affiliated VOW Partner" ("AVP") refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant's supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participant. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

**(d)** As used in Section 19 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by Participant to the MLS and aggregated and distributed by the MLS to Participant.

#### **Section 19.2**

**(a)** The right of a Participant's VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

**(b)** Subject to the provisions of the VOW Policy and these Rules, a Participant's VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange ("IDX").

**(c)** Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain

separate permission from other MLS Participant whose listings will be displayed on the Participant's VOW.

### Section 19.3

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

(v) That the Registrant acknowledges the MLS' ownership of, and the validity of the MLS' copyright in, the MLS database.

- (e) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- (f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

**Section 19.4** A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a nonprincipal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

**Section 19.5** A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

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

#### **Section 19.6**

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

#### **Seller Opt-Out Form**

1. Check one.

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

OR

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

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

\_\_\_\_\_  
Initials of seller

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

**Section 19.7:**

(a) Subject to subsection (b), a Participant's VOW may allow third-parties

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

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

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

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

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

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

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

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

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

