



# Multiple Listing Service

## Rules and Regulations

(Revised March 2015)

**Mountain Lakes Board of REALTORS® Multiple Listing Service**

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## **ARTICLE I – NAME AND FUNCTION**

The name of this organization is the Mountain Lakes Board of Realtors, Inc., Multiple Listing Service (MLS), and it shall be a committee function under the direction of the Mountain Lakes Board of Realtors, Inc., and administered and guided by the appointed MLS committee.

The MLS shall function in accordance with the handbook on Multiple Listing Policy of the National Association of Realtors. Any articles, rules or regulations in these policies and procedures, to the contrary notwithstanding, the guidelines in said handbook shall be used in the conduct in the affairs of the committee, provided such procedures at all times shall comply with the laws of the State of North Carolina.

## **ARTICLE II – OBJECTIVE**

A multiple listing service is:

- a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and customers and the public
- a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or non agency capacities defined by law)
- a means of enhancing cooperation among participants
- a means 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
- a means by which participants engaging in real estate appraisal contribute to common databases

Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).

## **ARTICLE III – OFFICE**

The principal office of the MLS shall be in the office of the Mountain Lakes Board of Realtors.

## **ARTICLE IV – MEMBERSHIP**

### **Participation**

Any REALTOR® Member of this or any other Board who is a principal, partner, or corporate officer, or branch manager acting on behalf of the principal, without further qualification, 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 Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

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 ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law.

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

Board of REALTORS® define the chief principal officer of the firm as the MLS "Participant". Brokers or salespersons other than principals are not considered "Participants" in the Service, but have access to and use of the Service through the principal(s) with whom they are affiliated.

- A nonmember applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership 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 Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is



intended to convey participation or membership or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

- The Membership Committee will also consider the following in determining a nonmember applicant's qualifications for MLS participation or membership:
  - All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
  - Pending ethics complaints (or hearings)
  - Unsatisfied discipline pending
  - Pending arbitration requests (or hearings)
  - Unpaid arbitration awards or unpaid financial obligations to any other Association or Association MLS

## **ARTICLE V – BUDGET**

The anticipated receipts and disbursements for the MLS shall be incorporated in and made a part of the Mountain Lakes Board of Realtors annual budget.

## **ARTICLE VI – RULES & REGULATIONS**

Listing of real or personal property of the following types, which are listed subject to real estate broker's license, located within the territorial jurisdiction of the Board of Realtors taken by Participants on exclusive right to sell and/or exclusive agency forms shall be delivered to the Multiple Listing Service within three (3) business days after all necessary signatures of seller(s) have been obtained:

- Single family homes for sale or exchange
- Vacant lots and acreage for sale or exchange
- Two-family, three-family, and four-family residential buildings for sale or exchange
- Commercial and industrial
- Motel and hotel
- Mobile homes and mobile home parks
- Farms

The Listing Data Form, along with photos when appropriate, shall be entered in the MLS computerized service hosted by Systems Engineering, Inc. within three (3) business days. Report of sale pending, report of closing, termination of listings, price changes and etc. shall be entered into the service within 24 hours.

Participants shall provide copies of any listing agreements and/or related documents to the Board Office or MLS committee upon request.

The Multiple Listing Service shall not require a Participant to submit listings on a form other than the form the Participant Individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the Multiple Listing Service. However, the Multiple Listing Service, through its legal council:

- May reserve the right to refuse to accept a listing form, which fails to adequately protect the interest of the public and the participants.
- Assure that no listing form filed with the Multiple Listing service establishes, directly or indirectly, any contractual relationship between the Multiple Listing Service and the client (buyer or seller).

The Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other Participants of the Multiple Listing Service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the Multiple Listing Service.

# LISTING PROCEDURES

## **Section 1. Listing Procedures**

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the multiple listing service, and are taken by participants on either an exclusive right-to-sell or an exclusive agency listing agreement\*, shall be delivered to the multiple listing service within 48 hours after all necessary signatures of seller(s) have been obtained:

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

**Note 1:** The multiple listing service shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:

- may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants
- assure that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other participants of the multiple listing service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service.

The different types of listing agreements include:

- exclusive right-to-sell
- open
- exclusive agency
- net

The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

The exclusive right-to-sell listing is the conventional form of listing submitted to the multiple listing service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, 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 exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, 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 exempt. 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.

**Note 2:** A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

**Note 3:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

## **Section 1.1 Types of Properties**

Following are some of the types of properties that may be published through the Service, including types described in the preceding paragraph that are published to be filed with the service and other types that may be filed with the Service at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker:

1. Residential
2. Residential income
3. Subdivided vacant lot
4. Land and ranch
5. Business opportunity
6. Motel-hotel
7. Mobile homes
8. Mobile home parks
9. Commercial income
10. Industrial

### **Section 1.1.1 Listings Subject to Rules and Regulations of the Service**

Any listing taken on contract to be filed with the Multiple Listing Service is subject to the rules and regulations of the Service upon signature of the seller(s).

### **Section 1.2 Detail on Listings Filed with the Service**

A listing agreement or property data form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

### **Section 1.3 Exempt Listings**

If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing (“office exclusive”) and such listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service. Auction listings are not required to be submitted to the service.

### **Section 1.4 Change of Status of Listing**

Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with Service within twenty-four (24) hours (except weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.

### **Section 1.5 Withdrawal of Listing Prior to Expiration**

Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the Service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

Sellers do not have the unilateral right to require 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 Multiple Listing Service may remove the listing at the request of the seller.

### **Section 1.6 Contingencies Applicable to Listings**

Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants.

### **Section 1.7 Listing Price Specified**

The full gross listing price stated in the listing contract will be included in the information published in the 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 listed property has been sold, proper notification should be given to the Multiple Listing Service.

### **Section 1.9 No Control of Commission Rates or Fees Charged by Participants**

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

### **Section 1.10 Expiration of Listings**

Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration dates specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of a listing must be signed by the seller(s) and filed with the Service.

### **Section 1.11 Termination Date on Listings**

Listings filed with the Service shall bear a definite and final termination date, as negotiated between the listing broker and the seller.

### **Section 1.12 Jurisdiction**

Only listing of the designated types of property located within the jurisdiction of the MLBOR MLS are required to be submitted to the Service. Listings of property located outside the MLBOR MLS's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

### **Section 1.13 Listings of Suspended Participants**

When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should 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 MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS shall, at the expelled Participant option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services,

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

### **Section 1.15 Listing of Resigned Participants**

When a Participant of the service resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised, in writing, of the intended removal so that the resigned Participant may advise his clients.

### **Section 1.16—Policies**

The Mountain Lakes Board of Realtors Multiple Listing Service has the following specific policies and sanctions for violations of the listing procedures (Note that any violations(s) of these policies could result in suspension of right and privileges of the Multiple Listing Service.):

- A copy of all listings and changes thereto will be provided to the Board office not later than seventy-two (72) hours after being entered into the MLS electronic system. If not received, the listing office will be notified that the document(s) have not been received. After notification, if the document(s) are not received within the next seventy-two (72) hours, the listing will be deleted from the database.
- All mandatory ("red letter indicated") items in the MLS System shall be complete and accurate. In cases where the listed property is a portion of a larger parcel, the Deed Book, Deed Page and Parcel ID shall be denoted with an asterisk (\*), and a note shall be placed in the Remarks section that the listed property is a portion of the deed reference and parcel. In such a case, "TBD" shall be denoted in the county and/or city tax fields to indicate, "to be determined". In cases where there are multiple deeds/parcel ID's, and asterisk (\*) will be entered into the appropriate space and all parcel ID's and deeds.
- "Main Photos" of residential and commercial property that includes a structure will be entered in the system within seventy-two (72) hours from the time the listing is placed in the MLS System. If the photo is not entered within this time frame, the Participant will be notified and given another seventy-two (72) hours to comply. If the Participant then fails to comply, the listing office will be fined \$25.00 (twenty-five dollars) for that listing. Additional photos are strongly encouraged.
- Multiple Listing Services may, as a matter of local discretion, require submission of a reasonable number of photographs or other graphic representations that accurately depict listed property except where sellers expressly direct that photographs of their property not appear in MLS compilations.
- Definitions and Use of MLS number suffixes:
  - “W” (Withdrawn)—The property has been removed from the compilation of active listings prior to its expiration date. Reminder: The listing will remain in the system under withdrawn status until the original expiration date.
  
  - “D” (Deleted)—The particular listing was entered into the MLS System in error (e.g.: the same listing was erroneously entered twice in the system thereby giving it two

different MLS numbers). Note: The MLS system will automatically assign a deleted status when a listing has been expired for seven (7) days.

“X” (Expired)—Automatically assigned by the MLS system at midnight of the listing’s expiration date.

“U” (Under Contract of Pending with Contingencies)—When there is a valid contract which has contingency (ies) such as financing, sale of purchaser’s home, septic approval, etc., the listing status shall be designated with a “U”. If an agent fails to make such designation, the Broker in Charge shall be notified.

“P” (Pending with no Contingencies)—When there is a valid contract with no contingencies (or when contingencies have been resolved), the “P” designation shall be placed on the listing in the MLS system. If an agent fails to do so, the Broker in Charge shall be notified.

“C” (Closed)—Within seventy-two (72) hours of the closing of the transaction (more specifically, the recording of the deed in the purchaser’s name), the listing shall be placed in a “C” (Closed) status in the MLS system, and the closing information shall be accurately recorded therein.

- Commission co-brokerage information will be provided as the percentage of the gross sale price that the listing office is offering a cooperating office that secures an Offer to Purchase and Contract. Whether the seller has agreed to cooperate with and compensate agents representing the Buyer shall be indicated as a “Y” for yes, “N” for no. This is a mandatory filed. If the seller has agreed to compensate the buyer’s agent and the listing agent chooses to include the compensation percentage, it shall be entered as stated above for co-brokerage as a percentage of the gross selling price.
- Names of owners and tenants shall be entered in this order/fashion: Last name, first name and any middle initial. Sellers may opt to not have their names disclosed and participants would not be found in violation of this rule that case or where the owner is an entity rather than an individual.
- Listing agents shall use as many coded features as possible to completely describe the listed property.
- Only the Listing Office/Listing Agent may reproduce keys of any listed property, unless the seller specifically gives written permission otherwise.

## **SELLING PROCEDURES**

### **Section 2 Showings and Negotiations**

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

- The listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or



- After reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers.

### **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 and Counter-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 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 Right of Cooperating Broker in Presentation of Offer**

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

### **Section 2.4 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 counter-offer 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 (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

### **Section 2.5 Reporting Sales to the Service**

Status changes, including final closing of sales, shall be reported to the Multiple Listing Service by the listing broker within twenty-four (24) hours after they have occurred. If negotiations were carried on under Section 2 (a) or (b) hereof, the cooperating broker shall report accepted offers to the listing broker within twenty-four (24) hours after occurrence and the listing broker shall report them to the MLS within twenty-four (24) hours after receiving notice from the cooperating broker.

## **Section 2.6 Reporting Resolutions of Contingencies**

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

## **Section 2.7 Advertising of Listing Filed with the Service**

A listing shall not be advertised by any Participant other than the listing broker without prior consent of the listing broker.

## **Section 2.8 Reporting Cancellation of Pending Sale**

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

## **Section 2.9 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 if asked whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

## **Section 2.10 Availability of Listed Property**

Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

## **REFUSAL TO SELL**

### **Section 3 Refusal to Sell**

If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

## **PROHIBITIONS**

### **Section 4 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 MLS without the prior consent of the listing broker.

#### **Section 4.1 "For Sale" Signs**

Only the "For Sale" sign of the listing broker may be placed on a property.

## **Section 4.2 “Sold” Signs**

Prior to closing, only the “Sold” sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

## **Section 4.3 Solicitation of Listing Filed with the Service**

Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the Realtors’ Code of Ethics, its Standards of Practice, and its Case Interpretations.

## **Section 4.4 Use of the Terms MLS and Multiple Listing Service**

No MLS participant, subscriber or licensee affiliated with any participant shall, through the name of their firm, their URLs, their 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, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

# **DIVISION OF COMMISSIONS**

## **Section 5 Compensation Specified on Each Listing**

The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other Multiple Listing 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 the sale (or lease) or as otherwise provided for in this rule. The listing broker’s obligation to compensate any cooperating broker as the procuring cause of the 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 commission pursuant to the listing agreement. In such instances, entitled 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 limit 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.

In filing a property with the multiple listing service of an association of REALTORS<sup>®</sup>, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on 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.\*

\*The compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by an association Multiple Listing Service is that the information to be published shall clearly inform the Participants as to the compensation they will receive 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 MLS 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.

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 non-agency capacities defined by law) which may be the same or different.

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.

Note 1: The multiple listing service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The association multiple listing 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.

Note 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction.

Note 5: 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 6: Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers.

### **Section 5.0.1 Disclosing Potential Short Sales**

Participants may, but are not required to, disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) to other participants and subscribers.

### **Section 5.1 Participant as Principal**

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

### **Section 5.2 Participant as Purchaser**

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

### **Section 5.3 Dual or Variable Rate Commission Arrangements**

The existence of 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 MLS. 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 sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is 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 Service Fees and Charges**

The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subjected to change from time to time in the manner prescribed.

#### **Initial Participation Fee:**

An applicant for participation in the service shall pay an application fee as established by the Board of Directors of the Mountain Lakes Board of REALTORS from time to time for each salesperson and licensed or certified appraiser who has access to the use of the Service, whether licensed as a broker, sales licensee or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. This fee shall accompany the application with check made payable to the Mountain Lakes Board of REALTORS. These charges are based on the costs of the overhead of the Service in setting up the proper records, systems, supplying each person with the necessary books and initial supply of forms with such fee to accompany the application.

#### **Recurring Participation Fee:**

The annual participation fee of each Participant shall be an amount established by the Board of Directors of the Mountain Lakes Board of REALTORS for each salesperson and licensed or certified appraiser who has access to and use of Service, whether licensed as a broker, sales licensee or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. Payment of such fees shall be made quarterly in advance. The first quarter fee shall accompany the application and the Initial Participation Fee.

#### **Reinstatement Fee:**

The reinstatement fee for a Participant that has left the Service and for each salesperson and licensed or certified appraiser associated with the Participant shall be as established by the Board of Directors.

#### **Refunds:**

Fees paid by any Participant shall be the immediate property of the Mountain Lakes Board of REALTORS.

- Resignation from the Service shall not entitle the resigning Participant to refund of any portion of fees paid prior to resignation.

- No resigning Participant shall be relieved from any obligation for charges incurred for services or benefits actually rendered by the Service prior to such resignation.

## **COMPLIANCE WITH RULES**

### **Section 7 Compliance with Rules: Authority to Impose Discipline**

By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other 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:

- letter of warning
- letter of reprimand
- 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
- appropriate, reasonable fine not to exceed \$15,000
- suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

**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.

### **Section 7.1 Compliance with Rules**

The following action may be taken for noncompliance with the rules:

- For failure to pay any service charge or fee within fifteen (15) calendar days of the date due and provided that at least seven (7) calendar days notice has been given, the Service shall be suspended until service charges or fees are paid in full. Furthermore, should a suspension for failure to pay any service charge be initiated a reinstatement fee will be assessed.
- For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

## **Section 7.2 Applicability of Rules to Users and/or Subscribers**

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

## **MEETINGS**

### **Section 8 Meetings of MLS Committee**

The Multiple Listing Service Committee Shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

#### **Section 8.1 Meetings of MLS Participation**

The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

#### **Section 8.2 Conduct of the Meetings**

The Chairperson or Vice Chairperson shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

## **ENFORCEMENT OF RULES OR DIPUTES**

### **Section 9 Consideration of Alleged Violations**

The Committee shall give consideration to all written complaints from Participants 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 unethical conduct or request for arbitration, it may be administratively considered and determined by the MLS Committee, and if a violation is determined, the MLS Committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board of REALTORS® within twenty (20) day s following receipt of the committee's decision.

If, rather than conducting an administrative review, the multiple listing committee has a procedure established to conduct hearings, the decision of the multiple listing committee may be appealed to the board of directors of the association of Realtors® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be



referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of Realtors®.

### **Section 9.2 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the Committee to the Secretary of the Board of Realtors for appropriate action in accordance with the professional standard procedures established in the Board's Bylaws.

### **Section 9.3 Use of Lock Box Keys and Lock Boxes**

The lock box system is designated as an activity of the Mountain Lakes Board of Realtors MLS Committee.

The lock box system is a service of the MLS Committee and every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS or lock box provider.

The MLS Committee may refuse to sell or lease lock box keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual convicted of a felony or misdemeanor if the crime, in the determination of the Board or MLS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

The MLS Committee may suspend the right of lock box keyholders to use lock box keys following their arrest and prior to their conviction for any felony or misdemeanor which, in the determination of the Board or MLS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

Factors that can be considered in making such determinations include, but are not limited to:

- The nature and seriousness of the crime.
- The relationship of the crime to the purpose for limiting lock box access.
- The extent to which access (or continued access) might afford opportunities to engage in similar criminal activity.
- The extent and nature of past criminal activity.
- Time since criminal activity was engaged in.
- Evidence of rehabilitation while incarcerated or following release and
- Evidence of present fitness.

Lockboxes are owned by Mountain Lakes Board of Realtors, and are issued to primary and secondary members. Members shall keep an accurate inventory of lockboxes. At the sole discretion of the Mountain Lakes Board of Directors, they can request that secondary members return some or all of the lockboxes in their possession if inventory of lockboxes are running low for primary members to be issued lockboxes.

The Board office shall maintain records of all lockboxes and shall inventory boxes owned by the board at least annually.

MLS lock boxes may not be placed on a property without written authority from the seller. This authority must be established in the listing contract or in a separate document created specifically for the purpose.

The MLS Committee shall charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the MLS Committee. Upon receipt of notice, the MLS Committee shall take any steps deemed necessary to resecure the system.

Lock box keys are not to be used by any one other than the person who has completed the lock box key application (i.e. no one may loan a key to another agent, and there shall be no office keys). Anyone found loaning a lock box key to another individual will be **fined \$500.00 for the first offense**. A second offense will constitute a more severe sanction from the MLS Committee.

All key holders, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lock box system.

## **CONFIDENTIALITY OF MLS INFORMATION**

### **Section 10 Confidentiality of MLS Information**

Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

### **Section 10.1 MLS 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.

## **OWNERSHIP OF MLS COMPILATION\* AND COPYRIGHT**

### **Section 11**

By the act of submitting any property listing content to the MLS the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. 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 the listed property.

## **Section 11.1**

All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Mountain Lakes Board of Realtors and in the copyrights therein, shall at all times remain vested in the Mountain Lakes Board of Realtors.

## **Section 11.2 Display**

Each participant shall be entitled to lease from the Mountain Lakes Board of Realtors a number of copies of each MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay for each such copy the rental fee set by the Board. \*\*

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

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

\*\* This section should not be construed to require the Participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the Board.

## **USE OF COPYRIGHTED MLS COMPILATIONS**

### **Section 12—Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the Board of Realtors, and shall not distribute any such copies to persons other than subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under Participant’s licensure(s) or certification, and unauthorized uses or prohibited. Further, none of the foregoing is intended to convey “Participation” or “Membership” or any right of access to information developed or published by a Board Multiple Listing 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 MLS compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS compilation.

## **Section 12.2—Reproduction**

Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances.

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

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 MLS 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.

\* 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 MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desired and ability to purchase, whether the reproductions were made on selective basis, and whether the type of properties contained in the property listing data is consistent with normal itinerary of properties which would be shown to the prospective purchaser.

## **USE OF MLS INFORMATION**

### **Section 13—Limitations on Use of MLS Information**

Use of information from MLS compilation of current listing information, from the Board's statistical report, or from any sold or comparable report of the Board or MLS for public mass-media advertising by an MLS Participant or in other public representations, may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the board or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

Based on information from the Mountain Lakes Board of Realtors® (alternatively, from the Mountain Lake Board of Realtors® MLS) for the period (date) through (date).

## **CHANGES IN RULES AND REGULATIONS**

### **Section 14—Changes in Rules and Regulations**

Amendments to the rules and regulations of the Service shall be by a majority vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Board of Realtors.

## **ARBITRATION OF DISPUTES**

### **Section 15—Arbitration of Disputes**

By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS Participants in different firms arising out of their relationships as MLS Participants subject to the following qualifications.

- If all disputants are members of the same Board of Realtors or have their principal place of business within the same Board's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of Realtors.
- If the disputants are members of different Board of Realtors or if their principal place of business is located within the territorial jurisdiction of different Boards of Realtors, they remain obligated to arbitrate in accordance with the procedures of the North Carolina Association of Realtors.

### **Section 15.1 Interboard Arbitration Procedures**

Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the National Association of Realtors. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of Realtors.

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

### **Section 16.1**

MLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS Participants have with clients.

### **Section 16.2**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

### **Section 16.3**

MLS Participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.

### **Section 16.4**

MLS Participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS Participant, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS Participant may contact the owner to secure such information and may discuss the terms upon which the MLS Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

### **Section 16.5**

MLS Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS participant might enter into a future buyer/tenant agreement or, alternatively, may enter into buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

### **Section 16.6**

MLS Participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers.

### **Section 16.7**

The fact that an agreement has been entered into with an MLS Participant shall not preclude or inhibit any other MLS Participant from entering into a similar agreement after the expiration of the prior agreement.

### **Section 16.8**

The fact that a prospect has retained a MLS Participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS Participants from seeking such prospect's future business.

### **Section 16.9**

MLS participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.

### **Section 16.10**

When MLS Participants are contacted by the client of another MLS Participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

### **Section 16.11**

In cooperative transactions, MLS Participants shall compensate cooperating MLS Participants (Principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS Participants without the prior express knowledge and consent of the cooperating broker.

### **Section 16.12**

MLS Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS Participant. A general telephone canvass, general mailing or distribution addressed to all prospect in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this rule.

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another MLS Participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS Participant when such solicitations are not part of a general mailing but are directed specifically to property owners

identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information intended to foster cooperation with MLS Participants.

### **Section 16.13**

MLS Participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current valid exclusive agreement to provide the same type of real estate service

### **Section 16.14**

MLS Participants, acting as buyer’s or tenant’s representatives or brokers, shall disclose that relationship to the seller/landlord’s representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord’s representative or broker not later than execution of a purchase agreement or lease.

### **Section 16.15**

On unlisted property MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/ landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not late than execution of any purchase or lease agreement.

MLS Participants shall make any request for anticipated compensation from the seller/landlord at first contact.

### **Section 16.16**

MLS Participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement.

### **Section 16.17**

MLS Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers’ exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other MLS Participants to whom such offers to provide services may be made.

### **Section 16.18**

MLS Participants, acting as subagents or buy/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker’s offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker’s agreement to modify the offer of compensation.



### **Section 16.19**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS Participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects.

### **Section 16.20**

Participants, users, and subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude participants from establishing agreements with their associated licensees governing assignability of exclusive agreements.

### **Section 16.21**

These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS Participants involving commission, fees, compensation, or other forms of payment or expenses.

### **Section 16.22**

MLS Participants shall not knowingly or recklessly make false or misleading statement about other real estate professionals, their businesses, or their business practices.

### **Section 16.23**

MLS Participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner.

### **Section 16.24**

MLS participants shall present a true picture in their advertising and representations to the public, including Internet content posted, and the URLs and domain names they use, and participants may not:

- Engage in deceptive or unauthorized framing of real estate brokerage websites;

- Manipulate (e.g. presenting content developed by others) listing content in any way that produces a deceptive or misleading result;
- Deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- present content developed by others without either attribution or without permission; or
- otherwise mislead consumers.

### **Section 16.25**

The services which MLS participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

## **ORIENTATION**

### **Section 17—Orientation**

Any applicant for MLS Participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of not more than four (4) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided.

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated additional training remotely.

## **INTERNET DATA EXCHANGE (IDX):**

### **Section 18. IDX Defined:**

IDX affords MLS participants 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 participants 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 participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all internet display.

## **Section 18.2 Participation**

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

### **Section 18.2.1**

Participants must notify the MLS of their intention to display IDX site 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 participants to 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 right-to-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.

### **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 subscriber that

- allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

### **Section 18.2.9**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the 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.

### **Section 18.3 Display**

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

### **Section 18.3.1**

Listings displayed pursuant to IDX shall contain only those fields of data designated by the 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 participants' 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 readily visible color and typeface not smaller than the median used in the display of 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**

Deleted November 2006.

### **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 only when linked directly to a display that includes all required disclosures.

### **Section 18.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants 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.

### **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.

### **Section 18.3.10**

The right to display other participants' listings pursuant to IDX shall be limited to a participant's office(s) holding participatory rights in this 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.

### **Section 18.3.12**

Display of expired, withdrawn, pending, and sold listings is prohibited.

### **Section 18.3.13**

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

### **Section 18.3.14**

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.

### **Section 18.3.15**

Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

### **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 participant's logo and contact information is larger than that of any third party.

### **Section 18.4 Service Fees and Charges**

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **Section 19: VIRTUAL OFFICE WEBSITES (VOWs)**

### **Section 19.1 VOW Defined**

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

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

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

As used in Section 19 of these rules, the term "MLS listing information" refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

## **Section 19.2**

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

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

Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant's VOW.

## **Section 19.3**

Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.

- The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail 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 e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
- The participant must require each Registrant to have a 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 e-mail address is associated with only one user name and password.

The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail 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.



The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:

- that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
- that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
- that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
- that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
- that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database

The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.

The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

#### **Section 19.4**

A participant's VOW must prominently display an 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 non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

#### **Section 19.5**

A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

## **Section 19.6**

A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

A participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision.

### **Seller Opt-out Form**

1. Check one.

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

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

\_\_\_\_\_  
Initials of Seller

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

## **Section 19.7**

Subject to Subsection b., below, a participant's VOW may allow third-parties:

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

Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's

professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

### **Section 19.8**

A participant's VOW shall maintain a means (e.g., 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 forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

### **Section 19.9**

A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

### **Section 19.10**

Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup> VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

### **Section 19.11**

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

### **Section 19.12**

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

### **Section 19.13**

A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

### **Section 19.14**

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

### **Section 19.15**

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

- expired, withdrawn, or pending ("under contract") listings
- the compensation offered to other MLS participants
- the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property
- sold information

### **Section 19.16**

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

### **Section 19.17**

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

### **Section 19.18**

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

### **Section 19.19**

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 current listings and not more than 100 sold listings in response to any inquiry.

### **Section 19.20**

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

### **Section 19.21**

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

### **Section 19.22**

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

### **Section 19.23**

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

### **Section 19.24**

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

### **Section 19.25**

Where a seller affirmatively directs his or her listing broker to withhold either the seller’s listing or the address of the seller’s listing from display on the Internet, a copy of the seller’s affirmative direction shall be provided to the MLS within forty-eight (48) hours.

# ADDENDUM A

## **RULES AND REGULATIONS FOR MOUNTAIN LAKES BOARD OF REALTORS® MULTIPLE LISTING SERVICE INTERNET DATA EXCHANGE PROGRAM (IDX)**

### **INTRODUCTION**

Associations of REALTORS® and their Multiple Listing Services must enable MLS Participants to display on Participants' public websites aggregated MLS active listing information subject to the requirements of state law and regulation. To comply with this requirement MLSs must, if requested by a Participant, promptly provide basic "downloading" of current listing information. Associations and MLSs can also offer alternative display options including framing of Board, MLS or other publicly accessible sites displaying Participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to Participants' servers on a persistent or transient basis, at the discretion of the MLS excluding the listing or property address, respectively, of any seller who affirmatively directs that the listing or the property address not appear on the Internet or other electronic forms of display or distribution.

MLSs that allow persistent downloading of the MLS database by Participants for display or distribution on the Internet or by other electronic means may require that Participants (1) utilize appropriate security protection, such as firewalls, provided that any security obligations imposed on Participants may not be greater than those employed concurrently by the MLS, and/or (2) maintain an audit trail of consumer activity on the IDX site and make that information available to the MLS if the MLS has reason to believe that a Participant's IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. This policy does not require associations or MLSs to establish publicly accessible sites displaying Participants' listings.

Definition of IDX:

IDX is essentially rules and enabling technologies allowing MLS participants to give each other permission to display each other's listings on their web sites; each participant giving this permission also receives reciprocal permission from other participants. Only the listings of participants who have not opted out of IDX can be displayed on their participants' sites. Those who participate in the program are termed "MLSIDX Subscribers"

## **APPENDIX A**

### **PURPOSE OF INTERNET DATA EXCHANGE**

The purpose of Internet Data Exchange (sometimes called Internet data Display or Broker Reciprocity) is to empower MLS member REALTORS® to deal with the real estate consumer of the future. To such end, the Mountain Lakes Multiple Listing Service is committed to:

- Permitting the brokerage community to take full advantage of the data MLS member REALTORS® have contributed to the system;
- Permitting MLS member REALTORS® to obtain and maintain first contact with the consumer in the real estate transaction.
- Permitting REALTORS® to fully market their services on the Internet;

Increasingly, consumers look to the Internet for information about real estate for sale. As REALTORS® become more innovative in offering on-line services to consumers, there is greater potential for success with Internet Data Exchange, in that:

- The sites with the best data, (from the consumer's perspective, that means the MOST data) now may be controlled by REALTORS®, rather than related national (e.g. realtor.com) or local association sites.
- As greater numbers of MLS Participants opt into an Internet data Exchange program, allowing for more extensive listing displays, individual office/agent web sites can become the best source of listing data in a particular area.
- When consumers visit the web sites of participating REALTORS®, they will stay longer because the REALTORS® have more listing data to offer. It is possible that consumers may find individual office/agent sites more user-friendly, as they are not as likely to be cluttered with non-listing content, such as advertising and additional links.

### **PROCEDURES, RULES AND REGULATIONS**

#### **Participation in the MLS Internet Data Exchange Program**

The purpose of our MLS is to share listing information and the Internet Data Exchange program (MLSIDX) is an ongoing program of this organization and we have presumed consent for such display by our Participants. Participants' consent for display of their active listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants. As ongoing administration review of MLS participants' website(s) is required to monitor compliance with established rules, the Mountain Lakes Multiple Listing Service may charge a reasonable annual participation fee, to be determined on an annual basis by the Multiple Listing Committee. Only REALTOR® members of the Mountain Lakes Board MLS shall be eligible to participate in the MLS's IDX Program.

The Internet Data Exchange may be hosted only on the brokerage's web site. Individual agents may participate in the Exchange if these regulations are observed.

- 1) The agent's brokerage firm must be participating in the MLSIDX program.
- 2) The agent's brokerage firm must have its own website with MLSIDX information.
- 3) The agent's web site must frame or "gateway" into the brokerage's web site.
- 4) The agent must have the brokerage's permission to frame/gateway into its web site.
- 5) The agent's web site must retain the brokerage's branding at all times and on all pages.
- 6) The agent and his broker must sign an agreement with the Mountain lakes MLS to observe all rules and regulations.

### **NC Real Estate Commission Position on MLSIDX**

The legal department of NCAR worked with the NC Real Estate Commission to insure compliance for this mandated program. The most recent version of the Listing Agreement contains wording, specifically designed to cover IDX issue, which may be selected by the seller entering the agreement.

In regard to the issue of whether a broker must identify the listing firm when displaying other brokers' listings on a public access web site, there is no Commission rule. However, the NCREC holds that License Law prohibits a licensee from misrepresenting material facts, which would, essentially, make it improper for a licensee to make it appear that another firm's listing is his own.

To such end as to avoid confusion or misunderstanding in this regard, the Mountain Lakes MLS will require that all displayed listings of other brokers must indicate that it is from the MLSIDX and must contain the listing office, with display of listing agent being optional.

### **MLS listings included in the Internet Data Exchange**

All listings, including Residential/Townhouse, Farm/Land, and Commercial/Multi-Family listings, are eligible for exchange. As each seller must decide if this is a marketing tool he wishes to use, IDXMLS Participants (agents) should explain the program, with the client indicating agreement by marking the appropriate box on the listing agreement. When the listing is entered into the MLS database, a "Y" or "N", as indicated by the agreement, should be entered in the mandatory field (IDXMLS) on our MLS input forms (computer entry). **Non-participants must enter "N" in the mandatory for every listing.**

The MLS staff will monitor these items on a daily basis as agreements are received and new entries made into the computer program, to check for non-compliance with rules, which may be subject to fines. Additional controls for this program will be instituted through our MLS provider, Systems Engineering, Inc., which will be informed of MLSIDX participating brokers.



## **Information Included in the Display**

The program allows for limited display, similar to that currently used on REALTOR.COM, and may include:

- |                       |  |
|-----------------------|--|
| 1) Address/area       | 5) approximate square footage          |
| 2) List price         | 6) garage/carport/basement information |
| 3) Style/type         | 7) room description                    |
| 4) Bedrooms/bathrooms | 8) remarks                             |

Only the photos, supplied by the listing firm for our MLS program, may be used in the Exchange. The following fields are not to be displayed:

- |                               |                             |
|-------------------------------|-----------------------------|
| 1) Listing/expiration date(s) | 3) compensation to agent(s) |
| 2) Owner's name               | 4) days on market           |

Each and every listing included in the Internet Data Exchange program must be identified as an MLSIDX property and must display the listing office name. And MLSIDX participant cannot display his agent information on the listings of other IDX Subscribers.

## **Procedures for Participation in Internet Data Exchange**

Becoming an Internet Data Exchange Subscriber means that you give all other IDX Subscribers (in the Mountain Lakes MLS only) permission to display your active listings on their web sites, according to the MLS Internet Data Exchange Rules and Regulations. In so Doing, you obtain permission from all other IDX Subscribers to display their active listings, following the same guidelines. Participation is confirmed by signing the MLS Internet Data Exchange Agreement and payment of required fees.

Each participant and Systems Engineering Inc. (Mountain Lakes MLS server) will be provided a list of participating IDXMLS brokers (offices), so all parties will be informed as to whose listings are available for exchange. Only those listings, which have seller's consent and are indicated with a "Y" in the Mandatory MLSIDX field, may be downloaded or framed.

Though it is not necessary that a participant have a web page, it is advisable to set one up to enjoy the full benefit of IDXMLS. As our system is already internet-based, implementation of the program is the responsibility of the participating firms, who may work with their own computer personnel or webmaster to download or frame eligible listings on the broker's central website. SEI has developed solutions for Internet Data Exchange and may be contacted directly to obtain assistance in setting up a web page or manipulating the data. (A link to SEI's MLSIDX information can be found on the initial page of our system at [www.navicamls.net](http://www.navicamls.net)).

The Mountain Lakes Multiple Listing Service is not responsible for any costs incurred by the individual offices/agents for the implementation or maintenance of the MLSIDX program.

## **Policing and Monitoring the MLSIDX Program**

The MLS will monitor the web sites of member firms, both MLSIDX participants and non-participants to check for compliance with rules. Participants in the program will be requested to monitor the display of their listings, as well, to assure the integrity of this program. Should MLS become aware of a violation of its rules, either the misuse of data by a participant or the display of IDX data by a non-participant, the MLS Committee will review and assess the severity of the

violation and may issue warnings or fines, as warranted. Misuse of the Internet Data Exchange Program is grounds for suspension from the MLS.

### **Explanations and Disclaimers**

Participating brokerage web site(s) must display an explanation, indicating the source of the MLSIDX data. The following wording will satisfy this requirement:

The data relating to real estate for sale on this web site comes in part from the Mountain Lakes Multiple Listing Service. Real Estate listings held by brokerage firms other than {insert your firm's name here} are marked with the letters or logo, "MLSIDX and includes the name of the listing office".

The web site must also display a disclosure indicating that MLSIDX data is "deemed reliable but not guaranteed".

### **Updating Data**

Ideally, one should update information on a daily basis to assure that customers receive current information. If you choose not to perform daily updates, it is advisable that the sites include a disclaimer indicating the frequency and days of update. The MLS Rules for Internet Data Exchange require all participants update the MLSIDX information on their website(s) at least every seven days. Display of outdated listings may be subject to fines by the MLS.

### **Restrictions on Consumer Use of MLSIDX Data**

MLSIDX participants are prohibited from sharing of the MLS database with any unauthorized third party and participants are required to indicate on their Web sites that the information being provided is for consumers' personal, noncommercial use and may not be used for any purpose other than to identify properties that consumers may be interested in purchasing.

## APPENDIX B

### **Multiple Listing Service Operating Procedures**

These procedures are not designed to supersede the Rules and Regulations of the Mountain Lakes Board of REALTORS®.

#### **1) Data Entry**

- New Construction: Home must be dried in with rough plumbing and rough electrical completed.
- New Data Entry and Change of Status shall be entered into system within twenty-four hours of change in any pertinent data.
- Amendment and Renewal forms shall be signed and faxed to Board office at time of change to MLS.
- Pre-Construction Entries:
  - Primary image shall be displayed as "Model Home" or "Sample," (if member has Photo Program) and/or Disclosed as "Model Home" or "Sample" in General Remarks (not in Private Remarks).
  - Information related to writing a Purchase Contract shall be available to any member at the time of data entry. This shall include Floor Plans, Surveys, Building Specifications, Material Descriptions, and Warranty Information.

#### **2) Images**

Each listing must have at least one photo.

- The primary image used (identified as Image A) must be an actual picture of or from the subject property being listed.
- Additional images may be of or from the subject property listed.
  - Actual property—not similar property.
  - View from property.
  - Common areas actually associated with the property.
- No image shall display signs with Listing Office, Listing Agent Identification, or contact information.

#### **3) Remarks Data**

- Data in the "remarks" field is published on the Internet and on Buyer's Handout Reports. It may not contain information used to direct a prospect's attention back to the Listing Office, Listing Agent, or Seller.
- "Special Remarks" Field will be used to reference:
  - Contacting the Listing Agent.
  - Listing Agent or Co-Listing Agent Identification.
  - Selling Bonus Information.
  - Means of communicating with other agents.
- Adjoining property may be mentioned only if it is also listed exclusively and on the MLS.
- Reference to adjoining property being available shall display MLS number in remarks section.

#### **4) Directions—(REQUIRED)**

- Directions to properties shall be clearly stated and made easy to locate by all members unfamiliar with any given area.

- Directions shall begin with an intersection or highway in the town nearest the property, not from the Listing Office. Each segment of the directions shall include the following:
  - Highway (Road) Name and/or Number.
  - Compass direction being traveled.
  - Mileage to next point.
  - Specific turns as being to right or left.
  - Landmarks may be used if they are clearly identified by name or description and not likely to change.
  - Landmarks should not be used if they are identified by having belonged to some previous owner.

#### **5) Sales Commission Issues**

Selling Commission shall be entered as that commission that will be paid to the Selling Broker at Closing, displayed in either percent or dollars.

#### **6) Name of Lakes, Rivers or Creeks**

- No property shall be described as having "frontage" unless the subject property actually has deeded frontage and touches that body of water or land, and named on a survey, map or deed.
- Term used to describe branch, creek, or river shall be identified on survey, map or deed.

#### **7) Legal Description**

- The following information must be provided on the MLS System for all listings:
  - Lot Number
  - County
  - Book and Page Number
  - Subdivision Name (if applicable)
  - Owner's Name

#### **8) City**

- The name of the City specified shall be that of the mailing address used for the subject property.
- Miles shall be stated as the mileage to the city used in the mailing address.
- County shall be the county where the property deed is recorded.

#### **9) Plats, Surveys, Seller's Property Disclosures, and Disclosures**

Plats, Surveys, Seller's Property Disclosures, and Disclosures relevant to the subject property shall be scanned and uploaded to Document Manage/Tools, or made available by fax or e-mail to all members. This information shall be downloaded only to the membership but can be distributed by a member, to a prospective buyer.

#### **10) Lockbox**

- All subject properties showing a Mountain Lakes Board of REALTORS® Lockbox under "showing instructions" shall be a Mountain Lakes Board of REALTORS® MLS lockbox, allowing any member of the Mountain Lakes Board of REALTORS® access with the membership supra key.
- NEGA or Personal Lockboxes should be noted in special remarks.

**11) Internet Links (Non Branded)**

- Non-Branded Virtual Tours may be placed as an Internet Link providing they do not identify any member, agent, broker, or affiliate of the Mountain Lakes Board of REALTORS®. (Non-branded means that there is absolutely no reference, information, or links to information about the listing agent or listing office.)

I HEREBY CERTIFY THAT THESE MLS RULES AND REGULATIONS WERE ADOPTED AND APPROVED BY THE MOUNTAIN LAKES BOARD OF DIRECTORS ON THIS DATE April 9, 2015

Kate Fields, President \_\_\_\_\_

John Poltrock, Secretary \_\_\_\_\_