



Operating Rules and Regulations of the
Eastern Shore Association of REALTORS®
Multiple Listing Service

Table of Contents

SECTION 1 LISTING PROCEDURES	7
Listing Procedures	7
Listing Status Definitions	8
Section 1.01 Clear Cooperation	9
Section 1.1 Types of Properties	10
Section 1.1.1 Listings Subject to Rules and Regulations of the Service	10
Section 1.2 Detail on Listings Filed with the Service	10
Section 1.2.0 Detail on Listings Filed with the Service	10
Section 1.3 Exempt Listings	10
Section 1.4 Change of Status of Listing	11
Section 1.5 Withdrawal of Listing Prior to Expiration.....	11
Section 1.6 Contingencies Applicable to Listings.....	11
Section 1.7 Listing Price Specified.....	11
Section 1.8 Listing Multiple Unit Properties	12
Section 1.9 No Control of Commission Rates or Fees Charged by Participants.....	12
Section 1.10 Expiration of Listings	12
Section 1.11 Termination Date on Listings	12
Section 1.12 Service Area.....	12
Section 1.13 Listing of Suspended Participants	12
Section 1.14 Listing of Expelled Participants.....	13
Section 1.15 Listing of Resigned Participants.....	13
Section 1.16 Property Address.....	13
Section 1.17 Duplicate Listings of Properties	14
Section 1.18 Public Remarks and Directions.....	14
Section 1.19 Photos.....	14
Section 1.20 Virtual Tours & Videos	16
Section 1.21 Allowable Bedrooms	16
Section 1.22 New Construction (<i>Adopted 10/20, Amended 05/22, Amended 05/24</i>)	16
Section 1.23 Vacation Rentals (<i>Adopted 10/20</i>).....	17
Section 1.24 Owner Information (<i>Adopted 10/20, Amended 06/22</i>)	17
Section 1.25 Utilities Available on Land Listings (<i>Adopted 10/20</i>).....	17
Section 1.26 Comparable Listings Entered in the MLS System (<i>Amended 06/22, 09/23</i>).....	18
SECTION 2 SELLING PROCEDURES	18
Section 2 Showings and Negotiations	18
Section 2.1 Presentation of Offers	18
Section 2.2 Submission of Written Offers.....	19
Section 2.3 Right of Cooperating Broker in Presentation of Offer	19
Section 2.4 Right of Listing Broker in Presentation of Counter-Offer.....	19

Section 2.5 Reporting Sales to the Service	19
Section 2.5.1 Reporting Land Sales Contracts to the Service	20
Section 2.6 Reporting Resolutions of Contingencies	20
Section 2.7 Advertising of Listings Filed with the Service	20
Section 2.8 Reporting Cancellation of Pending Sale	20
Section 2.9 Availability of Listed Property	20
SECTION 3 REFUSAL TO SELL	20
SECTION 4 PROHIBITIONS	21
Section 4 Information for Participants Only	21
Section 4.1 For Sale Signs	21
Section 4.2 Sold Signs	21
Section 4.3 Solicitation of Listing Filed With the Service	21
Section 4.4 Use of the Terms MLS and Multiple Listing Service.....	22
Section 4.5 Services Advertised as “Free”	22
Section 4.6 No Filtering of Listing (<i>Added 08/24</i>)	22
SECTION 5 COMPENSATION	22
Section 5.1 No Compensation Specified on Listings.....	22
Section 5.2 Consumer Disclosure of Compensation (<i>Added 08/24</i>)	23
Section 5.3 Disclosing Potential Short Sales	23
Section 5.4 Participant as Principal	23
Section 5.5 Participant as Purchaser	23
Section 5.6 Written Buyer Agreements (<i>Added 08/24</i>)	24
SECTION 6 SERVICE CHARGES.....	24
Section 6 MLS Service Fees	24
Section 6.1 Violations	24
Section 6.1.1 Minor Violations.....	25
Section 6.1.2 Serious Violations (<i>Amended 09/23</i>)	26
Section 6.1.3 Automatic Violations (<i>Added 11/22</i>)	27
SECTION 7 COMPLIANCE WITH RULES	27
Section 7 Compliance with Rules—Authority to Impose Discipline	27
Section 7.1 Compliance with Rules.....	28
Section 7.2 Submission of Documents to the Association	29
Section 7.3 Applicability of Rules to Users and/or Subscribers.....	29
SECTION 8 LOCKBOX AND KEYHOLDER RULES	29
Section 8.1 Lockbox Ownership.....	30
Section 8.2 Use Restriction.....	30
Section 8.3 Security of Lockbox Key and Property Key.....	30
Section 8.4 Lost or Stolen Key or Lockbox.....	31
Section 8.5 Audit and Inspection of Lockboxes	31
Section 8.6 Resale or Lease of Lockboxes	31

Section 8.7 Multiple Keys	31
SECTION 9 MEETINGS OF MLS COMMITTEE	31
Section 9.1 Meetings of MLS Participants	32
Section 9.2 Conduct of the Meetings.....	32
SECTION 10 ENFORCEMENT OF RULES OR DISPUTES.....	32
Section 10 Consideration of Alleged Violations	32
Section 10.1 Violations of Rules and Regulations	32
Section 10.2 Complaints of Unethical Conduct	33
Section 10.3 Complaints of Unauthorized Use of Listing Content	33
Section 10.4 MLS Rules Violations	33
SECTION 11 CONFIDENTIALITY OF MLS INFORMATION	34
Section 11 Confidentiality of MLS Information	34
Section 11.1 MLS Not Responsible for Accuracy of Information	34
SECTION 12 OWNERSHIP OF MLS COMPILATION* AND COPYRIGHT.....	34
Section 12	34
Section 12.1	34
Section 12.2 Display	35
SECTION 13 USE OF COPYRIGHTED MLS COMPILATION.....	35
Section 13 Distribution	35
Section 13.1 Display	35
Section 13.2 Reproduction.....	36
SECTION 14 USE OF MLS INFORMATION.....	37
SECTION 15 CHANGES IN RULES AND REGULATIONS.....	37
SECTION 16 ORIENTATION.....	37
SECTION 17 INTERNET DATA EXCHANGE (IDX)	38
Section 17 IDX Defined	38
Section 17.1 Authorization	38
Section 17.2 Participation	38
Section 17.2.1	38
Section 17.2.2	38
Section 17.2.3	39
Section 17.2.4	39
Section 17.2.5	39
Section 17.2.6	39
Section 17.2.7	39
Section 17.2.8	39
Section 17.2.9	40
Section 17.2.10	40
Section 17.2.11	40
Section 17.2.12	41

Section 17.3 Display	41
Section 17.3.1	41
Section 17.3.1.1	41
Section 17.3.2	41
Section 17.3.3	41
Section 17.3.4	41
Section 17.3.5	42
Section 17.3.6	42
Section 17.3.7	42
Section 17.3.8	42
Section 17.3.9	42
Section 17.3.10	42
Section 17.3.11	43
Section 17.3.12	43
Section 17.3.13	43
Section 17.3.14	43
Section 17.3.16	43
Section 17.4 Service Fees and Charges	43
VIRTUAL OFFICE WEBSITES (VOWS).....	44
Section 18.1 VOW Defined	44
Section 18.2	44
Section 18.3	45
Section 18.4	46
Section 18.5	46
Section 18.6	47
Section 18.7	48
Section 18.8	48
Section 18.9	48
Section 18.10	48
Section 18.11	49
Section 18.12	49
Section 18.13	49
Section 18.14	49
Section 18.15	49
Section 18.16	50
Section 18.17	50
Section 18.18	50
Section 18.19	50
Section 18.20	50
Section 18.21	50

Section 18.22	51
Section 18.23	51
Section 18.24	51
Section 18.25	51

SECTION 1 LISTING PROCEDURES

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 Virginia Association of REALTORS® approved Forms, or any other form approved by the State of Virginia as acceptable, shall be delivered to the multiple listing service within 48 hours after all necessary signatures of seller(s) have been obtained, or the date when the listing contract goes active, whichever is later: *(Amended 11/17, 10/20)*

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. 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 cooperate with other Participants of the multiple listing service acting as subagents, buyer agents, or both. *(Amended 11/96, 08/24)*

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. *(Amended 11/96)*

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 of the inherent nature of an open listing. Cooperation is the obligation to share information on listed property and to make

property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients (*Amended 4/92, 08/24*)

The **exclusive right-to-sell** listing is the form of listing where the seller authorizes exclusive authorization to the listing broker to cooperate with other brokers in the sale of the property. (*Amended 4/92, 08/24*)

The **exclusive agency** listing also authorizes the listing broker as exclusive agent, to cooperate with other brokers in the sale of the property 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. (*Amended 4/92, 08/24*)

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. (*Adopted 11/92*)

Listing Status Definitions

(*added 10/20, Amended 11/21, Amended 05/22, Amended 06/22, Amended 07/22, Amended 11/22*)

- **Active:** A property that is currently subject to a listing contract in which the brokerage has been directed by the seller to market the property, set appointments for showings and seek agreements of sale to present to the seller. A written offer has not been accepted.
- **Active Under Contract:** A property in which a written offer has been accepted but the Seller has instructed the listing broker in writing to continue marketing the property, showing the property AND considering backup offers. This includes scenarios with 72 hour Kick Out clauses.
- **Coming Soon:** Properties currently subject to a listing agreement in which the Listing Broker has been directed by the Seller to market (or pre-market) the property but not to set appointments for showings during a current, specified time-period.
 1. Properties must have a listing agreement.

2. The seller must agree to not allow showings while the listing is in the Coming Soon Status. This includes licensees affiliated with the listing broker.
 3. No agreement of sale is currently in effect.
 4. Listings are limited to a maximum of 14 calendar days in the Coming Soon status for listings with an occupancy or equivalent permit. Listings can be entered for less than 14 days, and later extended, up to the maximum of 14 days. Listings that need more than 14 days should consider using the "Temporarily Off-Market."
 5. The listing agent must include the Expected On-Market Date in the Public Remarks. This date cannot exceed 14 calendar days from the date the listing was submitted to the MLS under the Coming Soon listing status.
 6. Once published, "Coming Soon" properties cannot have their status changed prior to the "Expected On-Market Date."
 7. A listing that was once under the Coming Soon status cannot revert back to the Coming Soon status, until/unless it is subject to a new listing contract. (See also Section 1.10 regarding the "60 day rule.")
- **Pending:** Listing has an accepted contract (Agreement of Sale) in place but settlement has not yet taken place. This applies whether all contingencies have been fulfilled or not. It is no longer marketed, available for showings or to accept backup offers.
 - **Closed:** Property in which the settlement has occurred, or the lease agreement has been executed.
 - **Withdrawn:** Seller has stopped marketing the property, and has no intention to bring it back on the market, but a listing agreement with the brokerage is still in effect.
 - **Cancelled:** Seller and listing brokerage have mutually terminated the listing agreement prior to its expiration date.
 - **Expired:** The expiration date on the Listing Agreement has passed and an extension has not been secured.
 - **Temporarily Off Market:** The Seller has requested the brokerage to temporarily suspend showings and marketing, but the intent is to resume at some time in the future. The listing contract between the seller and brokerage remains in effect.

Section 1.01 Clear Cooperation

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.
(Adopted 11/19)

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

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 required 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: *(Amended 11/91)*

• residential • motel-hotel • residential income • mobile homes • subdivided vacant lot • mobile home parks • land and ranch • commercial income • business opportunity • industrial

Section 1.1.1 Listings Subject to Rules and Regulations of the Service

Any listing taken on a 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 1.2.0 Detail on Listings Filed with the Service

Participants and subscribers are required to submit accurate listing data and required to correct any known errors. *(Adopted 1/21)*

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. The ESAR Seller Opt-Out Form should be filed with the service at the time the listing is taken. *(Amended 05/22)*

Note 2: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation. *(Amended 11/19 – Adopted 2/20)*

Section 1.4 Change of Status of Listing

Any change in status (except settlement), 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 the service within forty-eight (48) hours after the authorized change is received by the listing broker. For settlement, see Section 2.5 Reporting Sales to the Service. *(Amended 07/21, Amended 01/2024)*

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 signed copy of the agreement between the seller and the listing broker which authorizes the withdrawal. This signed copy of this agreement, whether the listing is withdrawn by the Broker or the MLS Service, must be on file and available upon request by the MLS Service.

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 or her exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. *(Adopted 11/96)*

The withdrawal of the listing shall indicate that there is still an agency relationship. If there is no longer an agency relationship, the member should change the property to Canceled. If the listing is re-submitted to the MLS Service within 60 days, the listing agent must change the status back to Active instead of creating a new listing. *(Amended 02/22, 05/22)*

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. *(Amended 11/92)*

Section 1.8 Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the 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 date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. *(Amended 11/01)*

If the notice of renewal or extension is received within 60 days of the expiration date, the listing agent must change the status back to Active instead of creating a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. *(Amended 07/21, Amended 02/22)*

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 Service Area

Only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area **will** be accepted if submitted voluntarily by a participant, but cannot be required by the service. *(Amended 11/17).*

All listings submitted to the MLS are subject to the Rules and Regulations of the ESAR MLS.

Section 1.13 Listing 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, association 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 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 association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association 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 Listing 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, association 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 by the expelled 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 expulsion became effective. If a participant has been expelled from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association 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.

Section 1.16 Property Address

At the time of filing a listing, participants and subscribers must include a property address available to other participants and subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location. (*Adopted 02/22*)

Section 1.17 Duplicate Listings of Properties

The same property may be listed twice in the MLS Service in different types such as Residential, Land or Commercial for the same address and/or tax identification number and is one singular property. At the sale of the property, only one listing may be closed in the MLS system.

Section 1.18 Public Remarks and Directions

A Subscriber's and/or Authorized User's name, telephone number, website address, link to a branded virtual tour, e-mail address, personal advertisement or call to action to contact the listing firm or agent, shall not be entered in to the "Public Remarks" or "Directions" field of the Listing. In addition, a company's and/or project's name, telephone number, website address, link to a branded virtual tour, e-mail address, or any other company advertisement, shall not be entered into the "Public Remarks" or "Directions" field of the Listing. Commission/Compensation information is also prohibited in these fields. *(Amended 09/23, Amended 08/24)*

Section 1.19 Photos

All photographs submitted for inclusion in the MLS shall not contain

- any text (watermark and/or comments) overlaying the property photo, except for Commercial and Land listings, which may have outline or text overlay to denote the approximate boundaries or location of the property.
- photographer copyright watermarks
- "For Sale" signs
- banners
- Company/Broker/Agent logos, signs, or contact information.

(Amended 11/24)

To maintain the accuracy and efficacy of the MLS compilation, photos may not be removed from Closed listings. *(Added 11/24)*

Photos shall comply at all times with the following rules:

At least one (1) current picture is required upon entering the listing into the MLS.

No photo shall be uploaded into the MLS that the broker/agent does not own or does not have written permission to use.

Main photographs must be of the listed property and may be any one of the following (agent's choice):

A. Improved Property

(single family homes, multi family homes, condominiums, townhomes, mobile homes, farms)

1. An exterior photo of the dwelling – either a front, rear or aerial view denoting location of the property;

B. Unimproved Property

(land only)

1. An aerial view with an outline denoting the approximate boundaries of the lot;
2. A plat of the property;
3. A survey of the property;
4. A photo of the property or a photo taken from the property which must include some portion of the land for sale

C. Commercial

(improved or unimproved)

1. An exterior photo of the building – either front, rear or aerial view denoting the donating location of the property (agent's choice);
2. A plat of the property;
3. A survey of the property;
4. A floor plan

D. New Construction

1. The subject property while under construction. (*Adopted 11/24*)
2. The new construction logo provided by the MLS Service
3. An architectural rendering of the exterior elevation
4. The floor plan
5. Digital renderings of the model home, or a photo of the model or similarly constructed home. Must include overlay text describing the picture's relationship to the ultimate property to be built. Examples include: "model," or "similar."
(*Adopted 10/20*)

Section 1.20 Virtual Tours & Videos

All virtual tours & videos submitted for inclusion in the MLS shall not contain any text (watermark and/or comments) overlaying the images, “For Sale” signs, banners, Company/Broker/Agent logos, signs, or photos and shall comply at all times with the following rules:

No virtual tour and/or video shall be uploaded into the MLS that the broker/agent does not own or does not have written permission to use.

Notwithstanding the provisions of Section 1 of this Policy, a Subscriber and/or Authorized user of the MLS shall be permitted to:

1. Insert into the public remarks field an unbranded text link to an unbranded virtual tour and/or video of that listed property, and/or
2. Insert an unbranded text link to an unbranded virtual tour and/or video in the MLS of the listed property.

All links to any virtual tour and/or video of listed property in the MLS shall adhere to the following criteria:

- a) The link must direct the user only to the unbranded virtual tour and/or video page of that listed property;
- b) The virtual tour and/or video shall not contain any Subscriber and/or Authorized User contact information or links which will direct the user away from the virtual tour and/or video being viewed; and
- c) The link name (text) shall not contain all or any part of the Subscriber’s and/or Authorized User’s name, telephone number, website address, e-mail address, or company name.

Section 1.21 Allowable Bedrooms

All listings entered into the MLS must list the number of bedrooms based on the permitted bedrooms listed on the septic documentation or other government resource.

Section 1.22 New Construction *(Adopted 10/20, Amended 05/22, Amended 05/24)*

- A. New construction listings should contain proper disclosure in Remarks that accurately represent the current status of construction, if any. Acceptable examples include “to be built,” or “under construction,” or “in progress.”
- B. The listing address should show the home’s street number and street name, in a timely manner once provided.

- C. The Year Built field should be kept up to date, should the listing be under construction across a multi-year span. This field should rest on the year in which the certificate of occupancy was issued.
- D. When working with a builder on many new construction homes within one specific community, including offering lot plus land packages:
 - 1. The listing can be entered in the Residential category, even if there is no construction as yet begun.
 - 2. Enter no more than one representative active listing for each available model/floor plan within a community.
 - 3. Appropriately identify the representative listing in Remarks as a “MODEL”, “Plan A”, “Lot B” or the actual model name, etc.
 - 4. When settlement occurs a new comparable listing can be added.
- E. Settling a new construction listing:
 - 1. The listing can be set or changed to Closed only if settlement has occurred.
 - 2. Otherwise, the listing should be set to a status of Pending.

Section 1.23 Vacation Rentals *(Adopted 10/20)*

Vacation rentals shall not be entered into the ESAR MLS.

Section 1.24 Owner Information *(Adopted 10/20, Amended 06/22)*

When entering property owner information, the owner’s full name or legal entity name must be shown.

Section 1.25 Utilities Available on Land Listings *(Adopted 10/20)*

Several options within this field include the word “available.” Selecting an option that includes the word “available” should only be checked when the option already exists in some manner and is in close proximity to the listing.

Explanation of Utilities can be made in Remarks.

Section 1.26 Comparable Listings Entered in the MLS System *(Amended 06/22, 09/23)*

All closings entered in the ESAR MLS system are required to have a copy of the purchase agreement and closing documents that reflect the sold price. These documents will be available to the Association office upon request.

If there was no listing agreement before a sales contract was received or if there was a Seller Opt Out, the Selling Agent can enter the comp into the MLS with:

- “Non MLS Listing Office/Listing Agent.” As the Listing Office and Listing Agent. *(Adopted 05/22)*
- the “List Date” (if required) as the date the comp was entered. *(Adopted 10/20)*
- within 3 business days of settlement (in accordance with Section 1.4) and should not be entered prior to settlement. *(Adopted 05/22, Amended 09/23)*

SECTION 2 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:

- a) the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- b) 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. *(Amended 4/92)*

If contact cannot be made with the listing broker or his representative, the cooperating broker will notify the listing broker of the client contact.

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. *(Amended 4/92)*

Section 2.2 Submission of Written Offers

The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. *(Adopted 11/87)*

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. *(Amended 11/05)*

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 the 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. *(Amended 4/92)*

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, as soon as practical, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. *(Adopted 11/19)*

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. *(Adopted 11/93)*

Section 2.5 Reporting Sales to the Service

Final closing of sales and sales prices shall be reported to the multiple listing service by the listing broker within 3 business days after they have occurred. (A business day means any day except any

Saturday, any Sunday, or any day which is a holiday where the local county clerks offices are closed.) *(Amended 09/23, Amended 01/24)*

If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 3 business days after occurrence and the listing broker shall report them to the MLS within 3 business days after receiving notice from the cooperating broker. *(Amended 11/11, 07/21)*

Note 3: As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records. *(Adopted 07/21)*

Section 2.5.1 Reporting Land Sales Contracts to the Service

Land sales contracts will be reported to the service within 3 business days of settlement date. Closing information will specify this nature of the sales. *(Amended 09/23)*

Section 2.6 Reporting Resolutions of Contingencies

The listing broker shall report to the multiple listing service within forty-eight (48) hours that a contingency on file with the multiple listing service has been fulfilled or renewed, or the agreement cancelled.

Section 2.7 Advertising of Listings Filed with the Service

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

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 Availability of Listed Property

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

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 within forty-eight (48) hours. Notice to be delivered via comments in the Agent Remarks of the Listing.

SECTION 4 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. *(Amended 11/89)*

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. *(Amended 4/96)*

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.

Note: This section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This section is intended to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

This section is also intended to encourage brokers to participate in the service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

This section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.

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. *(Adopted 11/07)*

Section 4.5 Services Advertised as “Free”

MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. *(Adopted 02/22)*

Section 4.6 No Filtering of Listing *(Added 08/24)*

Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.

SECTION 5 COMPENSATION

Section 5.1 No Compensation Specified on Listings

Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS. *(Added 08/24)*

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant’s access to any MLS data and data feeds. *(Added 08/24)*

Note 1: The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers). *(Amended 08/24)*

Note 2: 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. *(Amended 08/24)*

Section 5.2 Consumer Disclosure of Compensation *(Added 08/24)*

MLS Participants and Subscribers must:

1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).
2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay.

Section 5.3 Disclosing Potential Short Sales

Participants must 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) when reasonably known to the listing participants. *(Amended 5/09, 08/24)*

Section 5.4 Participant as Principal

If a participant or any licensee (or licensed or certified appraiser) affiliated with a participant has any ownership interest in a 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 5.5 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. *(Adopted 2/92)*

Section 5.6 Written Buyer Agreements *(Added 08/24)*

Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

1. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source;
2. the amount of compensation in a manner that is objectively ascertainable and not open-ended.
3. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
4. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.

SECTION 6 SERVICE CHARGES

Section 6 MLS Service Fees

MLS Service fees for operation of the multiple listing service are in effect to defray the costs of the service. MLS service fees shall be approved and amended as needed by the Board of Directors.
(Amended 07/21)

MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CEI where the principal broker participates. MLSs may, at their discretion, require that the broker participants sign a certification of nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated. *(Amended 5/18 and 8/18)*

Note 2: Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, charge recurring fees. *(Adopted 07/21)*

Section 6.1 Violations

All listings and agents are addressed in a similar manner and timeframe, and without prejudice or favoritism towards any agent or brokerage.

Reporting Agents and Listing Agents are kept anonymous from the Committee and Board unless necessary for determining penalties or if a hearing is scheduled.

Violation process:

1. Violations are usually reviewed within 4-7 days of being reported.
2. Most violations are handled by staff. If needed, the issue is brought to the MLS Committee.
3. If it is a violation, staff emails the listing agent and broker using a standard form letter.
4. The listing agent has 72 hours (3 days) to correct the issue, if a correction is possible.
5. After 3 Serious violations within a calendar year (Jan 1 – Dec 31), the Listing Agent may be suspended from the MLS for 6 months and subject to any reinstatement fees as listed in the current Fee Schedule. Any MLS dues paid will not be refunded.
6. Rules for warnings and fines are as follows:
 - a) Each listing agent + particular violation on the first instance, is considered a warning. Additional instances of listing agent + particular violation are automatically fined, or if an automatic fine is called for by the MLS Rules.
 - b) If the agent does not correct the issue within the timeframe, they are assessed the fine.
 - c) Fines follow the current ESAR billing collections policies as outlined in the ESAR Policy Manual.
 - d) The count of first warnings for each listing agent + particular violation will reset back to 0 on Jan 1 of each year. *(Added 01/25)*

The following list of violations may be considered by the MLS Committee who may assess the applicable fines and penalties as amended from time to time. In the event a violation does not fall within a specifically listed item herein, the MLS Committee reserves the right to customize the fine or penalty as appropriate.

Section 6.1.1 Minor Violations

Minor Violations are fined at \$100, and include:

1. Failure to correctly or accurately enter for a listing:
 - a. the Zip Code;
 - b. the Listing or Selling Office and Agent;

- c. all of the required fields found on the MLS Input Sheet;
 - d. the correct property type;
 - e. the geocode or map pin;
- 2. Failure to provide ESAR with any documentation requested within three (3) days of request;
- 3. Any Violation of Section 1.18 Public Remarks and Directions, Section 1.19 Photos, Section 1.20 Virtual Tours & Videos.
- 4. Improper entry of a duplicate listing.

Section 6.1.2 Serious Violations *(Amended 09/23)*

Serious Violations are fined at \$250 and include:

1. Failure to, within the required timeframe,:
 - a. input a new listing into the system.
 - b. enter a correct expiration date for a listing.
 - c. update the listing status. Listing status to be changed when a ratified contract is in place (all signatures and initials are on the contract). Examples of listing status changes would be: from active to pending; from any status to closed (sold); from any status to withdrawn; or from any status back to active.
 - d. update a price.
 - e. file with the ESAR office an “Exempt Listing Form” signed by the seller(s) and a copy of the signed listing agreement when the seller(s) has refused to permit their listing to be disseminated to the MLS;
2. Expiring/relisting or withdrawing/relisting a listing as a new listing without waiting the required timeframe.
3. Failure to have written consent from the seller(s) when making changes that require seller(s) authorization. For example: extending the listing, putting the listing back on the market, withdrawing the listing, changing the listed price, changing the commission amount, etc.
4. Violation of the Lockbox and Keyholder Rules
5. Copying listing content and/or photos without consent.

6. Failure to have the proper and complete written and signed buyer agreement at the required timeframe within the client relationship.
7. Disclosure or filtering violations:
 - a. Failure to conspicuously disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable in the listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).
 - b. Failure to disclose in writing and have seller's authority for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers.
 - c. Filtering or restricting listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.

Section 6.1.3 Automatic Violations *(Added 11/22)*

These violations are automatic fines without the 72-hour option to correct first. Fines will be in the amounts as follows: \$500 first offense, \$1000 second offense, \$2000 third and subsequent offences.

1. Violations of the requirements for the "Coming Soon" status. *(Amended 01/25)*

These violations are automatic fines of \$2000, without the 72-hour option to correct first.

2. Entering information on offers of compensation in any MLS field. *(Added 08/24)*
3. Using MLS data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives. This violation will also result in the MLS terminating that Participant's access to any MLS data and data feeds. *(Added 08/24)*

SECTION 7 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:

- a. letter of warning (This does not include contact from ESAR notifying users that they have been reported, but rather includes only warnings as a result of being found to be in violation.)
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- f. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- g. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (*Amended 11/14*)

Note 1: A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (*Amended 05/14*)

Note 2: MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. (*Adopted 11/20*)

Section 7.1 Compliance with Rules

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

- a. for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full

b. for failure to comply with any other rule, the provisions of Sections 10 and 10.1 shall apply

Section 7.2 Submission of Documents to the Association

Members shall have 3 calendar days to submit any requested documentation to the Association office. On the 4th day, a fine of \$100 will be assessed and each day thereafter not to exceed \$15,000.

Section 7.3 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.

(Adopted 4/92)

SECTION 8 LOCKBOX AND KEYHOLDER RULES

Any individual who holds REALTOR membership in a local Board/Association of REALTORS, whether located in Virginia or any other state or territory, and every non-principal broker and sales licensee who is affiliated with such REALTOR, shall be able to subscribe to and use the lockbox services of ESARMLS subject to the execution of the SentiLock User Agreement, their agreement to abide by the ESARMLS Rules & Regulations, and payment of all required fees and/or fines (if any) in connection with their subscription to the lockbox services of ESAR.

ESARMLS offers SentiLock Bluetooth® REALTOR® Lockboxes, accounts on SentiLock SentiKey service, and administers the SentiLock User Agreement.

Active ESARMLS listings where lockbox services are requested and authorized by the Seller must have an ESARMLS approved lockbox. This rule does not require the use of a lockbox nor preclude the use of additional lockboxes authorized by the Seller. ESARMLS approved lockbox use is not required for Rental listings, Land listings and listings outside the ESARMLS jurisdiction.

If an active listing has an ESARMLS approved lockbox, the lockbox serial number must be entered into the Lockbox # field on the listing.

If a contractor lockbox is installed on a listing in addition to an ESARMLS approved lockbox, the presence and location of the contractor box may be entered in Agent Remarks. However, combination codes for contractor lockboxes may not be entered in any field within the MLS system.

Section 8.1 Lockbox Ownership

ESARMLS lockboxes are not permitted to be transferred between Subscribers and/or Authorized Users. Lockboxes are supplied to the Managing Broker. The cost of lockbox services shall be determined by the Board of Directors and set forth in the Policies and Procedure Manual.

The Broker agrees to reimburse ESARMLS for any lost or stolen or unaccounted for Lockboxes supplied for their use. The cost of lockbox reimbursements shall be determined by the Board of Directors and set forth in the Policies and Procedure Manual.

Section 8.2 Use Restriction

Holder shall use the Lockbox Key only for the purposes of gaining authorized entry into real property on which an ESARMLS lockbox has been installed pursuant to an agreement with the Seller of such real property. Use of a key to gain entry to a property for any purpose other than the exercise of authority or responsibility derived from the agency or other legally recognized brokerage relationship granted by the owner in the Listing agreement or appraisal relationship with the owner or contract buyer, is specifically prohibited. Utilization of information derived from viewing properties shall not be used or conveyed to anyone for any purpose other than to facilitate the sale or lease of real property.

Section 8.3 Security of Lockbox Key and Property Key

Holder acknowledges that it is necessary to maintain security of the Lockbox Key and the property key to prevent their use by unauthorized persons. Holder agrees:

- a. To keep the Lockbox Key in Holder's possession or in a safe place at all times;
- b. Not to allow Holder's PIN to be attached to the Lockbox Key;
- c. Not to disclose Holder's PIN to any third party;
- d. Not to lend the Lockbox Key or the property key to any person for any purpose whatsoever or to permit the Lockbox Key or the property key (without sellers authorization) to be used for any purpose by any other person;
- e. Not to duplicate the Lockbox Key or the property key (without authorization from the seller) or allow any other person to do so;
- f. Not to assign, transfer or pledge the Lockbox Key or any other rights thereto;
- g. Not to allow anyone who has been admitted to the property by Holder to remain in the property after the Holder has left the property without the consent of the property owners;

- h. To return the property key(s) to the Lockbox when leaving the property;
- i. Prior to leaving the property, close and lock any windows or doors opened or unlocked by the Holder or by anyone admitted by the Holder, and follow all additional security procedures as specified by ESARMLS, from time to time.

Section 8.4 Lost or Stolen Key or Lockbox

In the event a Lockbox Key or Lockbox is lost, stolen, or otherwise unaccounted for, the Subscriber and/or Authorized User shall notify ESARMLS within forty-eight (48) hours, by telephone in writing, or by e-mail. If the lost or stolen Lockbox Key or Lockbox is found and returned to ESARMLS in good working order, the cost of the replacement Key/Lockbox will be refunded. If the Lockbox Key or Lockbox is lost or stolen, the Subscriber and/or Authorized User agrees that the Key or Lockbox will immediately be deactivated by ESARMLS.

Section 8.5 Audit and Inspection of Lockboxes

ESARMLS reserves the right to conduct an audit of all Keys and Lockboxes at its discretion. Brokers shall be able to account for all Lockboxes issued within the timeframe set forth in the audit. The Lockboxes shall be deemed unaccounted for if the Broker is unable to locate the Lockbox at the time of the audit. ESARMLS reserves the right to question any information a Broker submits on the audit. The Broker will be invoiced with a specific date payment must be received by ESARMLS for any Lockboxes they are unable to locate. Until payment is received no additional Lockboxes will be issued to the Broker.

Section 8.6 Resale or Lease of Lockboxes

Lockboxes may not be sold or transferred between ESARMLS participants.

Section 8.7 Multiple Keys

Only one Lockbox Key access device or software may be issued to an ESARMLS participant.

SECTION 9 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 9.1 Meetings of MLS Participants

The committee may call meetings of the participants in the service to be known as meetings of the multiple listing service.

Section 9.2 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.

SECTION 10 ENFORCEMENT OF RULES OR DISPUTES

Section 10 Consideration of Alleged Violations

The committee shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee.

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. *(Amended 11/20)*

Section 10.1 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 multiple listing service committee, and if a violation is determined, the committee, and the ESAR board of directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the ESAR directors' decision. *(Amended 1/19, 07/21)*

If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, the decision of the multiple listing committee may be appealed to the board of directors of ESAR within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the VAR Professional Standards Statewide Cooperative 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®. *(Adopted 02/20, Amended 07/21)*

Section 10.2 Complaints of Unethical Conduct

All other complaints of unethical conduct shall be referred by the Executive Director/Association Executive of the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. *(Amended 07/21)*

Section 10.3 Complaints of Unauthorized Use of Listing Content

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 10.3 of the MLS rules.

Upon receiving a notice, the committee (Board of Directors) will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the committee (Board of Directors) that the use is authorized. Any proof submitted will be considered by the Committee (Board of Directors), and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee (Board of Directors) determines that the use of the content was unauthorized, the Committee (Board of Directors) may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. *(Adopted 5/18)*

Section 10.4 MLS Rules Violations

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules. *(Adopted 5/18)*

SECTION 11 CONFIDENTIALITY OF MLS INFORMATION

Section 11 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. *(Amended 4/92)*

Section 11.1 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.

SECTION 12 OWNERSHIP OF MLS COMPILATION* AND COPYRIGHT

Section 12

By the act of submitting any property listing content to the MLS, the participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license 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 listed property. *(Amended 5/18)*

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. *(Adopted 5/18)*

Section 12.1

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Eastern Shore Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the Eastern Shore Association of REALTORS®.

Section 12.2 Display

Each participant shall be entitled to lease from the Eastern Shore Association 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 association.**

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

* The term MLS compilation, as used in Sections 12 and 13 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 association.

SECTION 13 USE OF COPYRIGHTED MLS COMPILATION

Section 13 Distribution

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the association 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 an association 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 or published by an association multiple listing service where access to such information is prohibited by law. (*Amended 4/92*)

Section 13.1 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 13.2 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 judgment of the participant or their affiliated licensees, be interested.

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

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

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. *(Amended 05/14)*

SECTION 14 USE OF MLS INFORMATION

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

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 association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following notice: *Data Provided Based on information from the Eastern Shore Association of REALTORS® (ESAR) for the period (date) through (date). ESAR does not endorse or imply sales rankings on any individual or member company.* *(Amended 07/21)*

SECTION 15 CHANGES IN RULES AND REGULATIONS

Amendments to the rules and regulations of the service shall be by a vote of the members of the multiple listing service committee, subject to approval by the board of directors of the Eastern Shore Association of REALTORS®.

SECTION 16 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 no more than eight (8) 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. *(Amended 11/04)*

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 orientation and additional training remotely. *(Amended 11/17)*

SECTION 17 INTERNET DATA EXCHANGE (IDX)

Section 17 IDX Defined

IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listings. *(Amended 05/17)*

Section 17.1 Authorization

Participants' consent for display of their 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, 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 or other electronic forms of display or distribution. *(Amended 05/17)*

Section 17.2 Participation

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

Section 17.2.1

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 05/12)*

Section 17.2.2

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. *(Amended 05/12)*

Section 17.2.3

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) or other electronic forms of display or distribution. *(Amended 05/17)*

Section 17.2.4

Participants may select the listings they choose to display through IDX 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), or type of listing (e.g., exclusive right-to-sell or exclusive agency),. Selection of listings displayed through IDX must be independently made by each participant. *(Amended 05/17, Amended 02/22)*

Section 17.2.5

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

Section 17.2.6

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. *(Amended 05/12)*

Section 17.2.7

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. *(Amended 05/12)*

Section 17.2.8

Any IDX display controlled by a participant or subscriber that

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

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

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 17.2.9, 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. *(Adopted 05/12)*

Section 17.2.9

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. *(Amended 05/12)*

Section 17.2.10

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

Section 17.2.11

Participants shall not modify or manipulate information relating to other participants listings. MLS participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. *(Adopted 05/15)*

Section 17.2.12

All listing displayed pursuant to IDX shall identify the listing firm, and the email or phone number provided by the listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.* (*Amended 05/17, Amended 02/22*)

* 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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application. (*Amended 5/17*)

Section 17.3 Display

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

Section 17.3.1

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., showing instructions, and property security information, etc.) may not be displayed. (*Amended 05/12, Amended 02/22*)

Section 17.3.1.1

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (*Amended 5/12*)

Section 17.3.2

Deleted May 2015.

Section 17.3.3

Deleted May 2017; moved to 17.2.12 May 2017

Section 17.3.4

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

Section 17.3.5

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 17.3.6

Deleted November 2006.

Section 17.3.7

All listings displayed pursuant to IDX shall show the MLS as the source of the information. (*Amended 05/17*)

Section 17.3.8

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.* (*Amended 05/17*)

* 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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (*Amended 05/17*)

Section 17.3.9

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 five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer. (*Amended 11/17*)

Section 17.3.10

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 17.3.11

(Amended 05/17, Deleted 01/25)

Section 17.3.12

Display of expired, and withdrawn, is prohibited. *(Amended 11/15, Amended 02/22)*

Section 17.3.13

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

Section 17.3.14

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. *(Adopted 07/21)*

Section 17.3.15

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. *(Adopted 07/21)*

Section 17.3.16

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. *(Adopted 11/09)*

Section 17.4 Service Fees and Charges

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

VIRTUAL OFFICE WEBSITES (VOWS)

Section 18.1 VOW Defined

- a) A “Virtual Office Website” (VOW) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker- consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b) As used in Section 18 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.
- c) “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more 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 18 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 18.2

- a) The right of a participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b) Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX).

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

Section 18.3

- a) Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
 - i. The 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.
 - ii. 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.
 - iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b) The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, 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.
- c) If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, 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.
- d) The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:

- i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
 - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
 - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
 - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
 - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database
- e) The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f) The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

Section 18.4

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 18.5

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 18.6

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

Seller Opt-out Form

1. Check one.

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

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

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

Initials of Seller

Section 18.7

- a) Subject to Subsection b., below, a participant's VOW may allow third-parties:
 - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
 - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- b) Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 18.8, 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 18.8

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 18.9

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

Section 18.10

Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS®, 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 18.11

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 18.12

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[®].*(Amended 02/22)*

Section 18.13

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 18.14

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 18.15

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

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

Section 18.16

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 18.17

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 18.18

A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm, the listing broker or agent, and the email or phone number provided by the listing participant 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. *(Amended 02/22)*

Section 18.19

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 50% or 500 current listings (whichever is less) and not more than 50% or 500 sold listings (whichever is less) in response to any inquiry. *(Amended 11/17, 07/21)*

Section 18.20

A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days. *(Adopted 07/21)*

Section 18.21

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. *(Adopted 07/21)*

Section 18.22

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. *(Adopted 07/21)*

Section 18.23

(Adopted 07/21, Deleted 01/25)

Section 18.24

Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS. *(Adopted 07/21)*

Section 18.25

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. *(Adopted 07/21)*