

**RULES AND REGULATIONS
OF THE
MULTIPLE LISTING SERVICE
A DIVISION OF THE
DES MOINES AREA ASSOCIATION
OF REALTORS®**

Organized January 10, 1992

Listing Procedures

Section 1. LISTING PROCEDURES: Listings of real property of the following types, which are listed subject to a real estate broker's license, located within the territorial jurisdiction of the Multiple Listing Service or in a surrounding county, and are taken by Participants on forms acceptable by the Service shall be delivered to the Multiple Listing Service within **48 hours, Saturdays, Sundays and National Holidays excluded**, after all necessary signatures of seller(s) have been obtained:

- (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.
- (d) Real Property other than that listed above may be filed with the Multiple Listing Service if the Participant should so desire.

NOTE 1: The multiple listing service shall not require a participant to accept 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
- may assure that no listing form used by a Participant establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other participants of the

multiple listing service acting as subagents, buyer agents, or both.

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

The different types of listing agreements include:

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

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

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

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

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

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

Section 1.1.1. 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 1.3. EXEMPTED 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 prior to closing. Filing of the listing should be accompanied by certifications signed by the seller that seller does not desire the listing to be disseminated by the service.

Section 1.4. CHANGE OF STATUS OF LISTING: Any change in listed price or other change in the original listing agreement (including cancellations and changes to pending or sold status) shall be made only when authorized in writing by the seller and shall be filed with the Service 48 hours, Saturdays, Sundays and National Holidays excluded after the authorized change is received by the listing broker.

Section 1.5. WITHDRAWAL OF LISTING PRIOR TO EXPIRATION: Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided the listing broker immediately removes the listing from the active listings shown in the MLS data.

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 can document that his exclusive relationship with the listing broker has been terminated, the Multiple Listing Service may remove the listing at the request of the seller.

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

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

Section 1.8. LISTING MULTIPLE UNIT PROPERTIES: All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the Property Data Form. When part of 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 non-participants.

Section 1.10. EXPIRATION OF LISTINGS: Listing 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.

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

Section 1.11. TERMINATION DATE ON LISTINGS: Listings filed with the Service shall bear a definite and final termination date as negotiated between the listing broker and the seller.

Section 1.12. JURISDICTION: Only listings of the designated types of property located within the jurisdiction of the Multiple Listing Service are required to be submitted to the Service. Listings of property located outside the Multiple Listing Service's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

Section 1.13. LISTINGS OF SUSPENDED PARTICIPANTS: When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligation 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, a 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. LISTINGS OF EXPELLED PARTICIPANTS: When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, 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 shall, at the expelled 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. LISTINGS OF RESIGNED PARTICIPANTS: When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised, in writing, of the intended removal so that the resigned Participant may advise his clients.

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.

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

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

Section 2.3. RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER: The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to 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.

Section 2.4. RIGHT OF LISTING BROKER IN PRESENTATION OF

COUNTER-OFFERS: The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

Section 2.5. REPORTING SALES TO THE SERVICE: Status changes, including final closings of sales and sale prices, shall be reported 48 hours, Saturdays, Sundays and National Holidays excluded to the Multiple Listing Service by the listing broker unless the negotiations were carried on under Section 2(a) or (b) hereof, in which case the cooperating broker shall report accepted offers and prices, sending a copy to the listing broker 48 hours, Saturdays, Sundays and National Holidays excluded after acceptance.

Note 1: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants.

Note 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS.

In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the MLS:

1. categorizes sale price information as confidential and
2. limits use of sale price information to participants and subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below.

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research,

statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. *(Adopted 11/11)*

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 11/11)* **M**

Section 2.6. REPORTING RESOLUTIONS OF CONTINGENCIES: The listing broker shall report to the Multiple Listing Service within forty-eight (48) hours, Saturdays, Sundays and National Holidays excluded, that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement cancelled.

Section 2.7. ADVERTISING OF LISTING FILED WITH THE SERVICE: A listing shall not be advertised by any Participant other than the listing broker without 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 DISCLOSING THE EXISTENCE OF OFFERS

Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

Section 2.10 AVAILABILITY OF LISTED PROPERTY

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

Refusal to Sell

Section 3. REFUSAL TO SELL: If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

Prohibitions

Section 4. INFORMATION FOR PARTICIPANTS ONLY: Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

Section 4.1. “FOR SALE” SIGNS: Only the “For Sale” sign of the listing broker may be placed on a property.

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

Section 4.3. SOLICITATION OF LISTING FILED WITH THE SERVICE:

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

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 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 URL's, their e-mail addresses, their website addresses, or in any other way represents, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

Division of Commissions

Section 5 COMPENSATION SPECIFIED ON EACH LISTING

The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

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

*The compensation specified on listings filed with the multiple listing service shall appear in one of two forms. The essential and appropriate requirement by an association multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount

Note: MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price

defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation).

While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define “seller concessions” for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of “seller concessions” is suggested but not required for adoption:

Points paid by seller on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. *(Adopted 05/12)*

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

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

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

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

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

Note 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in

compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction.

Note 5: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction.

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

Section 5.0.1. DISCLOSING POTENTIAL SHORT SALES: Participants may, but are not required to, disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) to other participants and subscribers. (Amended 5/09)

Section 5.1. PARTICIPANT AS PRINCIPAL: If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any ownership interest in 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 5.2. PARTICIPANT AS PURCHASER: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker.

Section 5.3. DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS: The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to

pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction, or alternatively in a sale that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

Service Fees, Charges, and Fines

Section 6. SERVICE FEES AND CHARGES: The service fees and charges for operation of the Multiple Listing Service are as set forth on Appendix A attached hereto and are subject to change from time to time by publication of a new Appendix A.

Note: The initial participation fee shall approximate the cost of bringing the service to the participant.

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
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscribed 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.

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 9 and 9.1 shall apply.

Note: Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations. (*Amended 11/88*)

Section 7.2. APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS:

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

NOTE: Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or subscribers affiliated with MLS members or participants.

Meetings

Section 8. MEETINGS OF MLS COMMITTEE: The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

Section 8.1. MEETINGS OF MLS PARTICIPANTS: The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

Section 8.2. CONDUCT OF THE MEETINGS: The Chairperson or Vice Chairperson shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to

do so, by the Committee.

Enforcement of Rules or Disputes

Section 9. CONSIDERATION OF ALLEGED VIOLATIONS: The Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations.

Section 9.1. VIOLATIONS OF RULES AND REGULATIONS: If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged 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 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 Committee's decision.

If, rather than conducting an administrative review, the Multiple Listing Committee has a procedure established to conduct hearings, the decision of the Multiple Listing Committee may be appealed to the Board of Directors of the Association of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the Association's Grievance Committee for processing in accordance with the professional standards procedures of the Association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Association of REALTORS®.

Section 9.2. COMPLAINTS OF UNETHICAL CONDUCT: All other complaints of unethical conduct shall be referred by the Committee to the Chief Staff Executive of the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's Bylaws.

Confidentiality of MLS Information

Section 10. CONFIDENTIALITY OF MLS INFORMATION: Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

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

arising from any inaccuracy or inadequacy of the information such Participant provides.

Ownership of MLS Compilations and Copyrights*

Section 11. By the act of submission of any property listing content to the MLS, the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listing property.

Note: The Digital Millennium Copyright Act (DMC) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions of “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as participants and subscribers hosting an IDX display.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

- (1) Designate on its website and register with the Copyright Office an agent to receive takedown requests, The agent could be the MLS participant, subscriber, or other individual or entity.
- (2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- (3) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which allegedly infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- (4) Have no actual knowledge of any complained-of infringing activity.
- (5) Not be aware of the facts or circumstances from which complained-of infringing activity is apparent.
- (6) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity. Full compliance with these DMCA safe harbor criteria will mitigate an OSP’s copyright infringement liability. For more information see 17 U.S.C. Section 512.

Section 11.1. All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Des Moines Area Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the Des Moines Area Association of REALTORS®.

Section 11.2. Each Participant shall be entitled to lease from the Des Moines Area 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.

*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.

Use of Copyrighted MLS Compilations

Section 12. DISTRIBUTION: Participants shall, at all times, maintain control over and responsibility for each copy of any MLS Compilation leased to them by the 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 by or published by an Association Multiple Listing Service where access to such information is prohibited by law.

Section 12.1. DISPLAY: Participants and those persons affiliated as licensees with such Participants shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.

Section 12.2. REPRODUCTION: Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited

circumstances:

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

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 or 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 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)

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

Use of MLS Information

Section 13. LIMITATIONS ON USE OF MLS INFORMATION: Use of information from MLS compilation of current listing information, from the Association’s “Statistical Report,” or from any “sold” or “comparable” report of the Association or

MLS for public mass-media advertising by an MLS Participant or in other public representations, may not be prohibited.

However, any print or nonprint forms of advertising or other 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, or substantially similar, notice:

“Based on information from the DES MOINES AREA
ASSOCIATION OF REALTORS® or its Multiple Listing
Service for the period (date) through (date).”

Changes in Rules and Regulations

Section 14. CHANGES IN RULES AND REGULATIONS: Amendment to the Rules and Regulations of the Service shall be by a majority vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Association of REALTORS®.

Note: Some associations may prefer to change the rules and regulations by a vote of the participants, subject to approval by the board of directors of the association of REALTORS®.

Orientation

Section 15. 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 sixty (60) days after access has been provided.

Internet Data Exchange (“IDX”)

Section 16. IDX Defined: IDX affords MLS Participants the ability to authorize limited electronic display of their listings by other participants. (Amended 5/12)

Section 16.1. – Authorization: Participants' consent for display of their listings by other Participants pursuant to these rules and regulations must be established in writing. If a Participant withholds consent on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants. Even where Participants have given blanket authority for other Participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display.

Section 16.2. – 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 16.2.1. - Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

Section 16.2.2. –MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines.

Section 16.2.3. - 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). *(Amended 05/12)*

Section 16.2.4. - Participants may select the listings they choose to display on their IDX sites based solely on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, exclusive agency, or open listing), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant.

Section 16.2.5. - Participants must refresh all MLS downloads and refresh all MLS data at least once every twelve (12) hours. *(Amended 11/14)*

Section 16.2.6. - Except as provided in these rules, an IDX site or a Participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

Section 16.2.7. - 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 16.2.8- 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 18.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Adopted 05/12)* **M**

Section 16.2.9- 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 16.2.10-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 MLS's. 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 MLS's on a single search page; and that participants may display listings from each IDX feed on a single webpage or display. *(Adopted 11/14)*

Section 16.2.11 - 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 16.3. – Display: Display of listing information pursuant to IDX is subject to the following rules:

Section 16.3.1. – Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS Participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed.

Section 16.3.2. – (Deleted May 2015)

Section 16.3.3. – All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g., “thumbnails,” text messages, “tweets,” etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 16.3.4 – 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 16.3.5. - All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 16.3.6. - Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 16.3.7. - The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than one hundred (100) listings or five percent (5%) of the listings available for IDX display, whichever is fewer.

Section 16.3.8. - 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 16.3.9. - Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Note: An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS Subscriber) holds participatory rights in those MLS's. 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 MLS's on a single search page: and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

Section 16.3.10. – Display of expired, withdrawn, and withdrawn not cancelled listings is prohibited.

*Note: If "sold" information is publicly accessible, display of "sold" listings may not be prohibited.

Section 16.3.11 – Display of seller's and/or occupant's name(s), phone number(s), and email address(es) is prohibited.

Section 16.3.12. – Participants are required to employ appropriate security protection such as firewalls on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS.

Section 16.3.13. – Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers

Section 16.3.14 - Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

Section 16.15. – **Service Fees and Charges:** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

Virtual Office Website ("VOW") Rules for MLS

Section 17.1 (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 17 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 VOWs, 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.

(d) As used in Section 17 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by by Participants to the MLS and aggregated and distributed by the MLS to Participants.

Section 17.2 (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 17.3 (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 email address for, each

Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.

(iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

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

(c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

(d) The Participant shall require each Registrant to review, and affirmatively to express agreement (by mouse click or otherwise) to, a "Terms of Use" provision that provides at least the following:

- i.** That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
- ii.** That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use;
- iii.** That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
- iv.** That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant's consideration of the purchase or sale of an individual property;
- v.** That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's 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 17.4: A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a nonprincipal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

Section 17.5: A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

Section 17.6 (a): A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

Seller Opt-Out Form

1. Please check either Option a or Option b

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

OR

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

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

initials of seller(s)

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

Section 17.7:

(a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 17.8, 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 17.8: A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 17.9: A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

Section 17.10: Except as provided in these rules, the National Association of Realtors® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

Section 17.11: 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 17.12: A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

Section 17.13: 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 17.14: 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 17.15: A Participant's VOW may not make available for search by, or display to, Registrants any of the following information:

- a. Expired, withdrawn and withdrawn not cancelled listings
Note: Due to the 2015 changes in IDX policy and the requirement that participants are allowed to use MLS listing information through all delivery mechanisms when providing brokerage services. MLSs can no longer prohibit the display of pending ("undercontract") listings to the Registrants of a participant's VOW.
- 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.

Note: If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15f. must be omitted.

Section 17.16: 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 17.17: 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 17.18: A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

Section 17.19: A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 listings in response to any inquiry. (Note: The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule but may not be fewer than 100 listings or 5% of the listings in the MLS, whichever is less.)

Section 17.20: Intentionally omitted.

Section 17.21: A Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this Section, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information (or that of at least one Participant, in the case of a VOW established and operated on behalf of more than one Participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all Participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

Section 17.22: A Participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

Section 17.23: A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

Section 17.24: Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

Section 17.25: Intentionally omitted.

APPENDIX A
SERVICE FEES, CHARGES AND FINES
(Effective July 1, 2008)

1. Service Charges and Fees.

(a) **Initial MLS Participation Fee:** A Realtor® desiring to become a Participant in the MLS shall pay an initial participation fee of \$1,895.00 (with such fee to accompany the application), except that a Realtor® who is the grandparent, parent, brother, sister, spouse, child, grandchild, uncle, aunt, niece or nephew of an existing Participant and is affiliated with the same corporation, partnership or business association as the existing Participant may apply to replace such relative as an existing Participant without payment of the Initial Participation Fee. Such Realtor® shall, however, be required to pay an assignment fee of \$200.00, submit to an interview to determine eligibility, and if approved, pay the regular annual recurring participation fees as they become due each year after the assignment takes place.

(b) **Recurring MLS Participation Fee:** The annual participation fee of each Participant shall be \$200.00, except that in the event a Participant shall be affiliated with a corporation, partnership or business association having more than one offices, such Participant shall pay the annual participation fee of \$200.00 plus an additional \$70.00 for each additional office maintained by such corporation, partnership or business association.

(c) **Participant Fee:** The participant fee of each participant shall be an amount determined by the board of directors and adjusted annually in accordance with the budget for each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. The fee chart is posted on the dmaar.com for reference. Fees shall be prorated on a monthly basis.

(d) **Initial MLS Subscriber Fee:** Each non-Participant Realtor® (“Subscriber”) affiliated with a Participant or with a corporation, partnership or business association in which a corporate officer, partner or branch office manager is a Participant shall pay an initial fee of \$150.00 for use of the MLS.

(e) **Office Exclusive Listings:** A Participant shall pay \$35.00 for each office exclusive listing that it files with, or should have filed with, the MLS.

Note 1: This should be a minimal charge based on actual costs of producing and distributing the information.

Note 2: Any combination of charges may be used if they are in accordance with the National Association's MLS Antitrust Compliance Policy Point No. 3, which prohibits a fee that is contingent on the sale of a listed property.

Note 3: Financing from the multiple listing service should be adequate but not in such amounts as to be the source of financing the association's operation. The multiple listing service should pay its own way and allow for a reasonable operating reserve, but it is merely another service of the association and not the principal activity or reason for the association's existence. As long as it is able to restrict its services exclusively or primarily to association members, the service is not properly an association profit center.

Note 4: 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, amend Section 6, recurring participation fee and subscription fee, as necessary to include such individuals in the computation of MLS fees and charges.

2. Fines:

(a) **Misrepresentation of Square Footage in Listing:** The total living area square footage that appears on each listing must be the same as the total living area square footage shown on the appropriate county assessor's records. In the event of a discrepancy, the MLS will give notice to the Subscriber who obtained the listing giving such Subscriber 48 hours to conform the square footage shown on the listing to the assessor's records. Such Subscriber will be subject to a \$100.00 fine if the Subscriber does not make such correction within the 48 hour period. If such correction is not made within the 48 hours and the \$100.00 fine is not paid within the next five (5) days, the MLS will give a second notice to the Subscriber of such violation. Unless the fine is paid within a 5-day period after the date of such second notice, the Subscriber's MLS privileges will be suspended and the Subscriber's lockbox access will be shut off and neither will be reinstated until the fine is paid.

(b) **Failure to Timely Report Listing, Status Changes and/or Sales:** If within the time period specified in Section 1 of the MLS Rules and Regulations, a Subscriber either (1) fails to cause a listing, status change and/or sale to be reported to the MLS or (2) fails to file with the MLS notice of an office exclusive listing and, in either event, the MLS has given such Subscriber notice of such

violation, the Subscriber shall immediately place such listing on the MLS or deliver notice of the exclusive listing to the MLS, as appropriate, and shall pay a fine of \$100.00. If such fine is not paid within five (5) days after the original notice, the MLS shall send a second notice of the violation to the Subscriber. Unless the fine is paid and the listing shown on the MLS or office exclusive listing delivered to the MLS within five (5) days of second notice, the Subscriber's MLS privileges will be suspended and the Subscriber's lockbox access will be shut off and neither will be reinstated until the fine is paid.

(c) **Failure to Use Supra Lockbox**: When a lockbox is utilized on any property listed in the MLS, a Supra lockbox is required. Additional or similar lockboxes may be utilized at a seller's discretion. When a Subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber must install a proper lockbox on the listing within 48 hours. If such lockbox is not installed within 48 hours after the date of the notice, the Subscriber shall pay a \$100.00 fine. If such fine is not paid within five (5) days after the 48 hours has elapsed, the MLS will give the Subscriber a second notice of the violation. Unless the proper lockbox is installed on the listing and the fine is paid within five (5) days after the date of the second notice, the Subscriber's MLS privileges will be suspended and the Subscriber's lockbox access will be shut off and neither will be reinstated until the fine is paid.

(d) **FSBOA Designation Listing**: Any Subscriber obtaining an exclusive agency listing which is placed on the MLS shall cause such listing to be identified next to the selling office commission with the initials "FSBOA". Exclusive agency listings are those which authorize the listing broker, as exclusive agent, to offer cooperation and compensation on a blanket, unilateral basis but also reserves to the seller the general right to sell the property on an unlimited or unrestricted basis. These listings present special risks for procuring cause controversies and present administrative problems not posed by exclusive right to sell listings. Fines for not properly identifying FSBOA listings are as follows: The first offense shall result in a \$100.00 fine. The second offense shall result in a \$250.00 fine. The third offense shall result in a \$500.00 fine. The fourth offense shall result in termination of the Subscriber's MLS services and lockbox access.

(e) **Personal Promotion**: Listings entered into the MLS are intended to promote the property and not intended for use as a personal or company marketing vehicle. Prohibited items from marketing remarks and property photos shall include but not be limited to;

- agent/company name or photos,
- phone numbers,
- Web site addresses,
- "call for showings" or "open house" overlays,
- for sale signs nor text or any other items overlaid on photos.

- Exceptions are new construction listings using a “Similar To” banner, proposed listings using a “Proposed” banner, or Watermarks to protect images from copyright infringement. (See definitions.)

When a subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber must remove such information from the listing within 48 hours. If such information is not removed within 48 hours after the date of the notice, the Subscriber shall pay a \$100.00 fine. Subsequent violations by a Subscriber shall require a \$250.00 fine.

Definitions:

New Construction: New Construction shall be used as a property type in the MLS to describe a dwelling that has the framing walls in place. If not using an actual photo of the property, it is acceptable to use a photo with “Similar To” placed within the frame of the picture.

Proposed Construction: Proposed construction shall be used as a property type in the MLS to describe a dwelling that does not meet the New Construction definition. If a photo is used in this definition, then a banner stating “Proposed” must be placed within the frame of the picture. When a listing meets the New Construction definition, the listing must be changed to reflect the new type.

Watermarking: Images may contain a Watermark to protect authorship and identify the origination of an image, provided it meets these guidelines:

- Shall contain the symbol ©, shall contain a four digit year, and shall **contain up to a 5 character abbreviation for the brokerage firm who holds the copyright. (Eg. © 2014 ABC)**

- Must be screened back 50% or more from a black or white font.

- Must be located anywhere in the lower left 1/8th of the photo. (Commentary: That will help keep them unobtrusive, but also gives the Watermarker the ability to move it enough into the photo to prevent a scraper to 'chop off' the Watermark.)

- Font height must be no more than 5% of the image height, and no more than 20% of the image width. Font must be **Arial and cannot be bold.**

(f) **Withdrawing and Relisting.** Withdrawing and relisting property so it appears as a new listing on the MLS is not allowed. When a Subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber shall be allowed the above violation without a fine. For the subsequent violations the Subscriber shall pay a \$100.00 fine. For all subsequent violations the Subscriber shall pay a \$250.00 fine.

(g) **Auction Listings.**

3 types of Auctions:

1. **Absolute Auction (or auction without reserve)**
 - a. The property is sold to the highest bidder, regardless of the price
 - b. Since a sale is guaranteed, buyer excitement and participation are heightened
 - c. Generated maximum response from the market place
 - d. Many sellers, including financial institutions and government agencies have begun to use this method more frequently.
2. **Minimum Bid Auction**
 - a. The auctioneer will accept bids at or above a published minimum price. This minimum price is always stated in the brochure and advertisements and is announced at the auction
 - b. Reduced risk for seller as the sales price must be above a minimum acceptable level.
 - c. Buyers know they will be able to buy at or above the minimum
 - d. The seller may, however, limit interest in the auction to only those buyers willing to pay the minimum bid price, and therefore it must be low enough to act as an inducement rather than a hindrance.
3. **Reserve Auction (an auction subject to Confirmation)**
 - a. In this scenario, the high bid is reduced, in effect to an offer not a sale. A minimum bid is not published, and the seller reserves the right to accept or reject the highest bid within a specified time-anywhere from immediately following the auction up to 72 hours after the auction concludes. Sellers predetermine the price at which the property will be sold and are not obligated to confirm a sale other than at a price that is entirely acceptable to them. The main disadvantage of a Reserve Auction is that prospective buyers may not invest the time and expense of due diligence when there is no certainty they will be able to buy the property even if they are the highest bidder. (Three definitions provided from NAR)

- All listings that are put in the MLS System must offer cooperation and compensation.
- Mandatory auction field Yes/No, Yes requirement shall state what type of auction per the definition.
- Auction listings shall be readily available for showing.
- Auction listings shall provide information on how to register to bid and when the bids are reviewed and accepted in the agent only remarks.
- If an “Auction Listing” accepts bids/offers prior to auction then the details on when those bids maybe received and accepted by seller’s prior to the auction time/dates, shall be included in the agent only remarks.

When a Subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber must remove/make corrections to the listing within 48 hours. If the listing is not removed/corrected within 48 hours after the date of the notice, the Subscriber shall pay a \$100.00 fine. If such fine is not paid within five (5) days after the 48 hours has elapsed, the MLS will give the Subscriber a second notice of the violation for \$250. If that fine is not paid within

five (5) days after the date of the second notice, the Subscriber's MLS privileges will be suspended and the Subscriber's lockbox access will be shut off and neither will be reinstated until the fine is paid. At any time the MLS may remove said listing.

(h) **Listings that state "cannot be shown until a certain date"**. Listings on the MLS shall be available to be shown immediately. If sellers request a later date for showing the listing, it must be turned in as an "office exclusive" listing along with the \$35.00 processing fee. When a Subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber must remove the listing within 48 hours. If the listing is not removed within 48 hours after the date of the notice, the Subscriber shall pay a \$100.00 fine. Subsequent violations by a Subscriber shall require a \$250.00 fine. At any time the MLS Committee may remove the listing.

(i) **Inaccurate information** on the MLS. All information on the MLS shall be as accurate and complete as possible. When a Subscriber fails to comply with this rule and has been given notice by the MLS that the Subscriber is in violation of the rule, the Subscriber must correct the information on the listing within 48 hours. If the listing information is not corrected within 48 hours after the date of the notice, the Subscriber shall pay a \$100.00 fine. Subsequent violations by a Subscriber shall require a \$250.00 fine. At any time the MLS Committee may remove the listing.

(j) Penalties for Violation of MLS Rules and Regulations Relating to VOWS and IDX Sites:

Penalties:

Operation of a VOW or of an IDX site by a Participant, Non-Broker or Sales-Licensee in Violation of MLS Rules and Regulations.

1. First violation-ten (10) days suspension of services and \$250.00 fine.
2. Second violation-thirty (30) days suspension of services and \$500 fine
3. Third violation-ninety (90) days suspension of services and \$1,000 fine
4. Fourth violation-termination of services and \$5,000 fine.

For purpose of assessing penalties and determining whether violations are first, second, third, or fourth, calculations will be based on a rolling twenty-four (24) month period. In addition, penalties imposed shall be subject to review as provided in Section 9.1 of the Rules and Regulations of the MLS. No first violation will be determined, or penalty assessed, against a Participant, Non-Principal Broker or Sales-Licensee, as appropriate unless such person or entity has already received a prior written warning from the DMAAR MLS concerning, his, her or its violation of the MLS Rules and Regulation relating to the operation of a VOW or a participants IDX site within the immediately prior twenty-four (24) months. (Adopted October 13, 2009)

3. Definitions:

- a. Definition of “Identified” “buyers” for the DMAAR Safety Initiative to be:
Identified: someone known personally, referred directly, pre-qualified by a lender affiliate or has provided a copy of a government issued identification.

Revised January 12, 2010. 48 hours consistency through document.

Revised September 9, 2011.

Revised May 9, 2012. Section 16.3.14

Revised March 12, 2013 personal promotion rule

Revised April 8, 2014 personal promotion rule

Revised November 18, 2014 IDX rule change Section 16.3.10

Revised January 2015 IDX rule change per NAR BOD 11/14

Revised July 2015 Safety Initiative

Revised March 2016 NAR Model Bylaws rules updates

Revised November 2016 Auction Listings