

**GREATER AUGUSTA ASSOCIATION OF REALTORS, INC.**

**MULTIPLE LISTING SERVICE**

**RULES AND REGULATIONS**

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## **PREAMBLE**

The Multiple Listing Service of the Greater Augusta Association of REALTORS, Inc. (hereinafter referred to as "MLS" or "the Service" is established under authority set forth in Article XVIII of the Association Bylaws.

## **ARTICLE I LISTING PROCEDURES**

**Section 1.1:** Listings of real or personal property of the following types, which are listed subject to a real estate broker's license and are located within the territorial jurisdiction of the Multiple Listing Service taken by Participants; exclusive right to sell, exclusive agency and co-exclusive right to sell shall be entered into the MLS within 72 hours after all necessary signatures of seller(s) have been obtained:

- (a) Residential; Detached, Attached, Condo, Farm
- (b) Commercial Lease
- (c) Commercial Sales
- (d) Multi-Family
- (e) Land; Agricultural, Building Lot, Commercial, Development, Industrial
- (f) Rental

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

A co-exclusive right to sell listing being one in which only two licensed brokers are given the right to sell the property. A co-exclusive right to sell listing will be allowed by MLS only if it has been signed by representatives of both brokers. If the listing broker also intends to offer compensation to buyers' agents, the listing agreement and/or addendum should contain the seller's written authorization to compensate agents of prospective purchasers.

The exclusive right to sell listing is the conventional form of listing whereby 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 basis, but also reserves to the seller the general right to sell the property on a 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 prospect exempted. Care should be exercised to denote exclusive agency and exclusive right to sell listings with prospect reservations.

The MLS shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the MLS. However, the MLS, through its legal counsel: (1) may reserve the right to accept a listing form which fails to adequately protect the interests of the public and the participants; (2) assure that a listing form filed with the MLS establishes, directly or indirectly, any contractual relationship between the MLS and the client (buyer or seller).

Copies of all paperwork, including listing agreements, extension, price change and withdrawal authorizations, shall be retained on file by the listing broker. All paperwork shall be in proper format with appropriate signatures. A completed status change input sheet shall be retained by the listing broker on each transaction.

All listing agreements and extensions must have signatures of those persons required to sign the deed of bargain and sale. All listing agreements and extensions are required to have the signature of one licensed agent of the listing broker's firm. When re-entering an expired listing a NEW SIGNED agreement must be obtained by the listing broker. All changes or corrections on listing agreements or extensions must be initialed or signed by all persons required to sign said document.

Exclusive right to sell listings and co-exclusive right to sell listings in regards to prospect exclusions will be allowed by the Service. These persons must be named and on file in the listing broker's office. The listing must clearly state "prospect exclusion" on the listing form and "prospect exclusion" must also appear on the computer. Although allowed by the Service, this practice is not encouraged by the MLS Committee.

Limited Service Listings. Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to

the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

The MLS may not accept net listings because they are deemed unethical and, in most states, illegal. (08/15)

Open listings are not accepted except where required by law because of 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. (08/15)

**Section 1.2: Auction Properties:** All auction listings entered into the MLS must be subject to a valid listing agreement signed by the owner of the property and contain a list price; unconditional offer of cooperative compensation from the Listing Participant, as set forth in these Rules and Regulations and provide for agency pursuant to Virginia law during the time the listing is active in the MLS.

**Note: A VA Auctioneers license is required to auction real property and publicly advertise the terms, conditions and other details of a real estate auction.**

Auction Information in the Public Remarks field is limited to:

- a) a statement identifying the listing as a property subject to auction;
- b) an explanation of the basis for the list price (tax assessment, appraisal, opening bid) and
- c) whether or not the seller will accept an offer to purchase prior to the scheduled auction;

**The information referenced in items (i)-(viii) below is prohibited in the Public Remarks field.**

The following information may be entered in the Agent Only Remarks field:

- i. Any required procedures for Participants/Subscribers to register their representation of a potential bidder;
- ii. The date, time and place of the auction;
- iii. The terms and conditions of the auction;
- iv. Whether the auction is being conducted with or without the seller's reserve;
- v. The time or manner in which potential bidders may inspect the listed property;
- vi. The amount of Buyer premium, if any;
- vii. Any other material rules or procedures for the auction;
- viii. Auction Company URL.

When a property is no longer available for purchase prior to auction ("freeze" or "auction status") the listing must be placed in temporarily withdrawn or released status. In the event

the auction is unsuccessful and there is still a valid listing agreement in place, the listing may be restored to active status. (08/15)

**Section 1.3:** Any listing taken on a contract to be entered into the Service is subject to the Rules and Regulations of the Service upon signature of the Seller.

**Section 1.4:** Participants and subscribers are required to submit accurate listing data and are required to correct any known errors. Listings submitted into the MLS system shall be complete; including, but not limited to, room dimensions, photo, HOA and zoning, etc. All listing agreements shall be complete in every detail which is ascertainable as shown on the form. The MLS Committee or the Executive Officer for the Greater Augusta Association of REALTORS, Inc. shall withdraw any listing that does not comply with the Rules and Regulations of the Multiple Listing Service. All paperwork shall be available to the MLS Committee or the Association office at the direction of the Committee for spot check of the accuracy of information contained on such paperwork. All complaints as to the accuracy of a listing must be submitted in writing to the MLS Committee for consideration.

**Section 1.5:** If the seller refuses to permit listing information to be disseminated by the Service, the REALTOR may then take an exclusive listing ("office exclusive"), and such listing shall be retained by REALTOR, but not disseminated by the MLS to the Participants. The listing must contain certification signed by the seller that he does not desire the listing be placed in the Service. Exempted listings cannot be entered after the sale as comparable listings.

**Section 1.6:** All changes in the original listing agreement shall be entered in the computer within 72 hours after the authorized change is received by the listing broker. Written authorization for changes must be on file in the listing broker's office.

**Section 1.7:** When requested by Seller, listed property may be withdrawn from MLS before the expiration date of the listing agreement provided written authorization is on file in the listing broker's office. Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his exclusive relationship with the listing broker has been terminated, the Multiple Listing Service may remove the listing at the request of the seller.

**Section 1.8:** All listings with a ratified contract will be marked Active with Kick Out or Pending. If the Active with Kick Out is used, the additional field for time frame is required. There is a Contingent Commercial status, however there are no allowances for any contingencies on other classes. Status changes must be made within 72 hours of change.

**Section 1.9:** The full gross listing price will be stated in the listing agreement and will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

**Section 1.10:** Properties that are eligible for more than one Class may be entered into each Class respectively. Each listing created must reference all other listing numbers for Participants. When the property sells, only one listing may be marked Sold. All other listings are to be withdrawn from the MLS.

- a. Residential and Land
- b. Residential and Rental
- c. Residential and Commercial
- d. Residential and Multi-Family
- e. Commercial Sales and Commercial Leases

**Section 1.11:** Mobile homes taxed as personal property may not be listed in the MLS.

**Section 1.12:** The MLS does not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by Participants. Further, the MLS does not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non participants.

**Section 1.13:** Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement unless prior to that date the MLS receives notice that the listing has been extended or renewed. 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 on file with the listing Broker. The Association Office may remove from the system all expired listings not marked Pending or Sold after 72 hours of the expired date. 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 1.14:** Listings entered into the Service shall bear a definite and final termination date as negotiated between the listing broker and the seller.

**Section 1.15:** Listings entered into the Service shall contain the owner name(s). Owner of Record may be used only when written request by the Seller has been received with sufficient reason for withholding the name(s). The request must be on file in the Broker office with copy submitted to the Association Office at the time of listing input.

**Section 1.16:** On Commercial Class listings, listing agent must provide to the MLS Office a letter signed by the seller requesting confidentiality in order for owner's name, street name or photo to be confidential and not displayed in the MLS. Upon sale of the property, agent will correct address in the MLS so appraisers and agents can use as a comparative listing. A photo is also requested upon closing, but not mandatory. A street name of "confidential commercial" will be available as the option for agents to use if seller requests confidentiality.



**Section 1.17:** At the time of filing a listing, participants and subscribers must include a property address available to other participants and subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location. NAR (2/22)

**Section 1.18:** Only listings of the designated types of property located within the service area of the Multiple Listing Service are required to be submitted to the Service. Listings of property located outside the Multiple Listing Service's service area will be allowed if submitted voluntarily by a Participant, but cannot be required by the Service.

**Section 1.19:** Beginning August 1, 2013, every Active Residential listing of property located in the City of Staunton, City of Waynesboro or Augusta County area must have an MLS approved lockbox unless the Seller has requested in writing on the listing agreement or other documentation that NO lockbox be placed on the property. This written request (listing agreement or documentation) must be submitted to GAAR when the property is listed. The standard 72 hour rule will apply to placement of lockbox and submission of paperwork. (Note: Combination box may be used in addition to an MLS approved lockbox when necessary, but not in place of the approved box).

**Section 1.20:** All listings entered into the System are required to contain **disclosures that are required for a complete contract package** which will be uploaded as Documents and made a part of the listing. The standard 72 hour rule will apply to the uploaded documents.

**Section 1.21:** 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 MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised in writing of the intended removal so that the suspended Participant may advise his clients.

**Section 1.22:** 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 MLS, the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his clients.

**Section 1.23:** 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.

## **ARTICLE II SELLING PROCEDURES**

**Section 2.1:** Appointments for showings and negotiations with the Seller for the purchase of listed property entered into the MLS 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.

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

**Section 2.2:** 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 2.3:** 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 2.4:** 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 written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

**Section 2.5:** 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 2.6:** Status changes, including final closing of sales shall be reported to the MLS computer system by the listing office within 72 hours after they have occurred. If negotiations were carried on under Section 2.1 (a) or (b) hereof, the cooperating broker shall report accepted offers to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS computer system within 72 hours after receiving notice from the cooperating broker.

Note: 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 Participant.

**Section 2.7:** The listing broker shall report to the MLS computer system within 72 hours that a contingency on file with the MLS office has been fulfilled or renewed or the agreement canceled.

**Section 2.8:** A listing shall not be advertised by any Participant other than the listing Broker, without the prior consent of the listing broker.

**Section 2.9:** The listing office shall report within 72 hours to the MLS computer system at the time any pending sale is canceled, and listing is to be restored to active immediately.

**Section 2.10:**

- (a) Except when sellers expressly direct that photographs or other graphic representations of their property not appear in the MLS, listings of all property types with the exception of Lots and Land shall contain a photo within 72 hours of listing input. A front elevation photo is required to be one of the uploaded photos in the MLS. The front photo does not have to be the main photo. Photos submitted to the MLS shall not have any For Sale or other signs with Franchise, Company or Agent name or number visible.
- (b) Any virtual tours submitted to the MLS shall not contain any agent, company or franchise contact information, images or web links other than stating the listing is provided courtesy of: Office Name Only.
- (c) Public remarks shall not contain any agent, company or franchise contact information, images or web links.

Failure to comply after two notices from the Association Office will result in sanctions imposed as set forth in Section 9.4.

**Section 2.11:** For Sale by Owner (FSBO) Sold Listings may be entered, but are not required. If entered, the listing shall immediately be marked Sold and is required to be complete in detail as required by Article I Section 1.4. The Listing must be entered within 72 hours after final closing as required in Article II Section 2.6. It should be noted in the Remarks that it is a FSBO Sold entered for Comp purposes only.

**ARTICLE III  
REFUSAL TO SELL**

**Section 3.1:** If the seller of any listed property filed with the MLS 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.

**ARTICLE IV  
PROHIBITIONS**

**Section 4.1:** Any listing entered into the MLS shall not be made available to any non-participant in MLS without the consent of the listing broker.

**Section 4.2:** "FOR SALE" signs: Only the "FOR SALE" signs of the listing broker may be placed on a property.

**Section 4.3:** "SOLD" signs: Prior to closing, only the "SOLD" sign of the listing broker may be placed on the property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

**Section 4.4:** "COMING SOON" signs or riders are prohibited from being placed on properties not actively listed.

**Section 4.5:** Participants shall not solicit a listing on property entered into the Service unless such solicitation is consistent with Article 16 of the REALTORS Code of Ethics, its Standard of Practice and its Case Interpretations.

**Section 4.6:** MLS Participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. NAR (2/22)

## **ARTICLE V DIVISION OF COMMISSIONS**

**Section 5.1:** The listing broker shall specify, on each listing entered into the Multiple Listing Service, the compensation offered to other MLS Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

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

This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listing as 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:** 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 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 1:** The Association Multiple Listing Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the Association Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The Association Multiple Listing Service shall not disclose in any way the total commission negotiated between the Seller and the listing broker.)

**(Note 2:** The listing broker may, from time to time, adjust the compensation offered to other Multiple Listing Service Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised.)

**(Note 3:** The Multiple Listing Service shall make no rule on the division of commissions between Participants and non participants. This should remain solely the responsibility of the listing broker.)

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

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

**Section 5.2:** Participants are required to disclose potential short sales to other participants and subscribers. When disclosed, participants must advise other participants whether and 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.

**Section 5.3:** If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any ownership interest in the property, the listing of which is to be disseminated through the MLS, that person shall disclose that interest when the listing is filed with the MLS and such information shall be disseminated to all MLS Participants.

**Section 5.4:** 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 5.5:** 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/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

**Section 5.6:** Participants and subscribers who share the listing broker's office of compensation for an active listing must display the following disclaimer or something similar.

**The listing broker's offer of compensation is made only to participants of the MLS where the listing is filed. NAR (2/22)**

## **ARTICLE VI SERVICE CHARGES**

**Section 6.1:** The following service charges for operation of the Service are in effect to defray costs of the Service, subject to change from time to time as determined by the MLS Committee and approved by the Board of Directors.

**(a)** Initial Participation Fee: An applicant for participation in the Service shall pay an initiation fee of \$700.00. An initiation fee of \$350.00 shall be charged to an applicant for participation in the Service in the event the new office is in the same name as an existing Participant's office, regardless of location. In the event a Participant remains a member of the

Association, but chooses not to participate in the Multiple Listing Service for a period not exceeding twelve (12) months, the Participant shall not be required to pay an initiation fee upon returning to the Multiple Listing Service.

**(b) Recurring Participation Fee:** The monthly participation fee of each Participant shall be an amount currently set by the Board of Directors times 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. Payment of such fees shall be made within (5) business days upon receipt of bill from the Service. However, MLSs must provide Participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated. (11/17)

Note: Multiple Listing Services that choose to include affiliated unlicensed administrative and clerical staff personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, charge recurring fees. (11/17)

**(c)** For filing a new listing or renewal of listing with the Service, a flat fee may be charged for each listing submitted as determined by the MLS Committee with the approval of the Board of Directors.

**Section 6.2:** Should the listing fees and other service charges not be sufficient to cover operating expenses for Multiple Listing Service, the Board of Directors of the Greater Augusta Association of REALTORS, Inc., upon recommendation of the MLS Committee, may immediately impose a subscription fee which is based upon the number of subscribers affiliated with a Participant who have access to the Service, sufficient to cover all excess operating expenses.

## **ARTICLE VII COMPLIANCE WITH RULES**

**Section 7.1:** The following action may be taken for noncompliance with the rules.

**(a)** A late fee of \$10.00 will be assessed for accounts not paid within five (5) business days of billing. An additional \$5.00 per day will be assessed every day thereafter until paid. Service will be suspended until fees and late fees are paid in full.

**(b)** For failure to comply with any other rule, the provisions of Article IX shall apply.



**Section 7.2:** 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.

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 subscriber can reasonably attend taking into consideration cost, location, and duration
- d. Appropriate, reasonable fine not to exceed \$15,000
- e. Suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. Termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Revised 11/14).

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

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

has received more than three (3) administrative sanctions within a calendar year. (Adopted 11/20)

## **ARTICLE VIII MEETINGS**

**Section 8.1:** The Committee shall meet for the transaction of its business at a time and place determined by the Committee or at the call of the chairman.

**Section 8.2:** The Committee may call meetings of the Participants in the Service to be known as meetings of Multiple Listing.

**Section 8.3:** The Chairman, or Vice Chairman, shall preside at all meetings, or in their absence, a temporary Chairman from the membership of the Committee shall be named by the Chairman, or, upon his failure to do so, by the Committee.

## **ARTICLE IX ENFORCEMENT OF RULES OR DISPUTES**

**Section 9.1:** The Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors).

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

**Section 9.2:** 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 Virginia REALTORS in accordance with the Bylaws and Rules and Regulations of the Greater Augusta Association of REALTORS, Inc. within twenty (20) days following receipt of the Committee's decision.

Alleged violations involving unethical conduct shall be referred to the Virginia REALTORS for processing in accordance with their professional standards procedures. If the charge

alleges a refusal to arbitrate, such charge shall be referred to the Virginia REALTORS for disposition.

**Section 9.3:** All other complaints of unethical conduct shall be referred by the Committee to the Virginia REALTORS for appropriate action in accordance with the professional standards procedures established by the Virginia REALTORS.

**Section 9.4:** If the Committee determines a violation has occurred, the following sanctions shall be imposed by the Committee:

First offense by an individual agent: Letter of reprimand and a \$100 fine to the Agent and a \$100 fine to the Broker;

Second offense by an individual agent: \$500 fine to the Agent and a \$500 fine to the Broker;

Third Offense by an individual agent: \$1,000 fine to the Agent and a \$1,000 fine to the Broker;

Fourth and any future offenses by an individual agent: \$2500 fine to the Agent and a \$2500 fine to the Broker.

If the fines are not paid within 10 days of billing, a late fee of \$10.00 will be assessed and an additional \$5.00 per day thereafter until paid. MLS Service will be suspended until fees and late fees are paid in full. Note: If service is suspended to the Broker, it will suspend service to all agents in that Broker office.

## **ARTICLE X CONFIDENTIALITY OF MLS INFORMATION**

**Section 10.1:** 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 10.2:** 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.

## **ARTICLE XI OWNERSHIP OF MLS COMPILATIONS\* AND COPYRIGHTS**

**Section 11.1:** By the act of submitting any property listing content to the MLS the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on "Comparables." Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property.

\*Note: The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or "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 and 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 alleges 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 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 11.2:** All right, title and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Greater Augusta Association of REALTORS, Inc., and in the copyrights therein, shall at all times remain vested in the Greater Augusta Association of REALTORS, Inc.

**Section 11.3:** Each Participant shall be entitled to lease from the Greater Augusta Association of REALTORS, Inc., 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 copy, the rental fee set by the Association.\*\*

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

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

\*\* This section should not be construed to require the Participant to lease a copy of the MLS Compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling or appraising the types of properties which are required to be filed with the MLS, and who does not, at any time, have access to nor use of the MLS information or MLS facility of the Association.

## **ARTICLE XII USE OF COPYRIGHTED MLS COMPILATIONS**

**Section 12.1:** 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 persons who are affiliated with such Participant as licensees or those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by 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 12.2:** 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 12.3:** 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 Participants 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 and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.(Amended 05/14)

**Section 12.4:** Noncompliance with any provision of this Article shall result in a fine of \$50.00 for the first offense, a fine of \$200.00 for the second offense and a fine of \$500.00 for the third offense.

### **ARTICLE XIII USE OF MLS INFORMATION**

**Section 13.1:** Use of information from the MLS compilation of current listing information, from the Association's "Statistical Report", or from any "sold" or "comparable" report to 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 non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

**"Based on information from the Greater Augusta Association of REALTORS, Inc. or its Multiple Listing Service for the period (date) through (date)".**

### **ARTICLE XIV CHANGES OR ADDITIONS TO RULES AND REGULATIONS**

**Section 14.1:** Changes or additions to the Rules and Regulations of the MLS may be made by a majority vote of the members of the Committee, subject to approval by the Board of Directors.

### **ARTICLE XV MLS WAIVER**

**Section 15.1:** A MLS Participant may not be assessed any charges or subscription fees for printed MLS sheets/cards/books with respect to any individual who is engaged solely and exclusively in a specialty of the real estate business separate and apart from listing, selling, leasing or appraising the types of properties which are required to be filed with the MLS.

Such exemption to be effective for a period of one year, subject to annual renewal. The exemption, if recommended by the Multiple Listing Committee and approved by the Board of Directors shall not be effective until the MLS Participant has submitted to the MLS a written declaration setting forth facts sufficient to establish the exemption. For each year that the exemption is desired, the MLS Participant must submit a new declaration. The exemption shall automatically be revoked upon the licensee engaging in the sale or listing or appraising property filed with the Multiple Listing Service.

At the termination of each annual exemption, the MLS Participant shall also submit to the MLS declaration to the effect that, in fact, the exempt licensee did not, during the previous twelve month period, engage in the sale or listing or appraising of properties filed in the MLS. The declaration must be submitted NO LATER THAN the last day of the calendar year (December 31).

**Section 15.2:** The failure of the MLS Participant to submit such a declaration, or the submitting of a false declaration, shall automatically revoke the exemption and subject the MLS Participant to payment to the MLS, the sum equal to that year's subscription charge for the licensee involved.

**Section 15.3:** A MLS Participant whose business office is located outside the jurisdiction of Augusta County (including the City of Staunton and the City of Waynesboro) may not be assessed any charges or subscription fees for printed MLS sheets/cards/books with respect to any individual employed by or affiliated as an independent contractor with the Participant who does not actually have access to and use of the Service.

## **ARTICLE XVI INTERNET DATA EXCHANGE (IDX)**

**Section 16:** IDX Defined: IDX affords MLS Participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the Participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listings. (5/17)

**Section 16.1:** Participants' consent for display of their listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame or display the aggregated MLS data of other Participants. Even when participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.

**Section 16.2:** Participant in IDX is available to all MLS Participants who are REALTORS who are engaged in real estate brokerage and who consent to display of their listings by other Participants.

**Section 16.2.1:** Participants must notify the MLS of their intention to display IDX information and must give to 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 seller has directed their listing brokers to withhold their listing or the listing's property address from all display on the internet (including, but not limited to, publicly-accessible Web sites or VOWs) or other electronic forms of display or distribution.

**Section 16.2.4:** Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price or type of property (e.g. condominiums, cooperatives, single-family detached, multi-family), or type of listing (e.g., exclusive right-to-sell or exclusive agency). Selection of listings displayed through IDX must be independently made by each participant. NAR (2/2)

**Section 16.2.5:** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads, at least once every twelve (12) hours.

**Section 16.2.6:** Except as provided in the IDX policy and these rules, an IDX site or Participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity.

**Section 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 purpose of the IDX policy and these rules, "control", means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules.

**Section 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 16.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

**Section 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.

**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 MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

**Section 16.3:** Display: Display of listing information pursuant to IDX is subject to the following rules:

**(a)** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g. showing instructions and property security information) may not be displayed.

**(b)** 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.

**(c)** All listings displayed pursuant to IDX shall identify the listing firm and the email or phone number provided by the listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the devices application. (2/22)

**(d)** 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.

**(e)** 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.

**(f)** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use and 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.

**(g)** The data consumers can retrieve or download in response to an inquiry shall be limited to 500 listings per search.

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

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

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

**(j)** Display of expired and withdrawn listings\*is prohibited.(2/22)

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

**(k)** No portion of the IDX database shall be used or provided to a third party for any purpose other than those expressly provided for in these rules.

**Section 16.4:** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **ARTICLE XVII VIRTUAL OFFICE WEBSITE (VOW)**

**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 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 a 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 the 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 the 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 purpose of verifying compliance with MLS rules and monitoring display of participant's 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 non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

**Section 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

**(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 to discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participant's 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 or type of property.

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

**Section 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 prohibited in the MLS. The Participant may, however augment MLS Listing Information with additional information not otherwise provided 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, the listing broker or agent and the email or phone number provided by the listing participant in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

**Section 17.19:** A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

**Section 17.20:** A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than Five Hundred (500) per search.

Note: The number of listings that may be viewed, retrieved, or downloaded shall be specified by the MLS in the context of this rule, but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less. (11/17)

**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.

Revised June, 2022