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## Rules and Regulations

These rules and regulations are subject to change, and this document is updated frequently. For the most recent version of this document, please go to the CVAR website [www.catawbavalleyrealtors.com](http://www.catawbavalleyrealtors.com) – Inside CVAR - Forms

March 2018



*CarolinaMLS is the MLS provider for the MLS of Catawba Valley, Inc. The name "MLS" as reflected in these Rules and Regulations may apply to either MLSCV or CarolinaMLS.*

Approved by the MLS Board of Directors March, 2018

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**RULES AND REGULATIONS  
OF THE  
MULTIPLE LISTING SERVICE OF CATAWBA VALLEY, INC.**

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The services provided to the Member Participants of a Board/Association Multiple Listing Service, are related to the dissemination of blanket unilateral offers of compensation and listing information required thereby, and any other services, such as statistical studies and accumulations (“Service”). The Multiple Listing Service of Catawba Valley, Inc. (“MLSCV” or “the Service”), is a wholly owned subsidiary corporation of the Catawba Valley Association of REALTORS®. (“CVAR”). CRRA is the parent company and sole shareholder of CarolinaMLS. CarolinaMLS may also refer to successors of the Carolina Multiple Listing Services, Inc.

These Rules and Regulations are policies adopted by the MLS Board of Directors to govern the operation of the MLS. MLS designed these rules to guide Member Participants and Subscribers while avoiding arbitrary restrictions on business practices.

Member Participants receive participatory rights from the Service.

“Broker in Charge” or “BIC” means a person or entity who is licensed as a real estate broker by the Real Estate Commission (both North and South Carolina) and is designated as the Broker in Charge of any partnership, association, limited liability company, corporation or their business entity who, for compensation or valuable consideration, sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers to rent, real estate or the improvements thereon for others. In most instances, but not necessarily, the Broker in Charge is the Member Participant.

“Broker” or “Licensee” means a real estate or appraisal licensee, other than the Broker in Charge in an office or firm.

“Listing Brokerage” means the firm who contracts as the agent of a property owner. For the purposes of these Rules and Regulations, the Listing Brokerage includes the Member Participant (firm) who is a party to the listing agreement with the Seller, as well as the Member Participant’s Subscribers.

“Cooperating Brokerage” means the Member Participants (firms) and Subscribers, other than the Listing Brokerage, who attempt to locate or does locate a buyer for the listing. A Cooperating Brokerage may be a subagent, a buyer agent, or a licensee acting in other agency or non-agency capacities defined by law.

“Nonmember” means a Subscriber who is not a member of a Board or Association of REALTORS® but who is under the supervision of a REALTOR® member of a Board or Association of REALTORS®.

“Nonparticipant” means anyone who is not a Member Participant or Subscriber of MLS.

“Realtor®” is a registered collective membership mark which identifies real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics. Use of the word “REALTOR®” by non-REALTORS® is prohibited under federal copyright law.

## **LISTING PROCEDURES**

**SECTION 1: REQUIRED LISTING CHARACTERISTICS:** Listings submitted to the MLS shall possess all the following characteristics:

1. The subject of the listing must be real property, for sale, exchange or lease.
2. The listing must belong to a real estate brokerage.
3. The listing must qualify for one of the following property categories: 1) single-family, 2) condo/townhouse, 3) multi-family, 4) land, lots and acreage, 5) commercial or 6) rental.
4. The listing must be subject to one of the following two types of listing agreements as defined by the National Association of Realtors® (NAR):
  - **Exclusive Right to Sell Listing Agreement:** A contractual agreement under which the Listing Brokerage acts as the agent of the Seller(s), and the Seller(s) agrees to pay a commission to the Listing Brokerage, regardless of whether the property is sold through the efforts of the Listing Brokerage, the Seller(s), or anyone else, except that the Seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the Seller(s) is not obligated to pay a commission to the Listing Brokerage. *(Amended 1-07)*
  - **Exclusive Agency Listing Agreement:** A contractual agreement under which the Listing Brokerage acts as the agent of the Seller(s), and the Seller(s) agrees to pay a commission to the Listing Brokerage if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the Seller(s), the Seller(s) is not obligated to pay a commission to the Listing Brokerage. *(Amended 1-07)*
5. The Seller, in the listing agreement, must authorize the Listing Brokerage to offer cooperation and compensation to the other Member Participants of MLS acting as subagents or buyer agents or in other agency or non-agency capacities defined by law. *(Amended 10-97)*
6. **SIGNATURES OF SELLER(S) ON LISTING AGREEMENT:**
  - a. **SIGNATURES OF HUSBAND AND WIFE:** Any listing agreement, when submitted to the MLS, is required to contain the signatures of both husband and wife where the property is either separately owned by one or jointly owned by both at the time of conveyance.
  - b. **SIGNATURES OF ALL PROPERTY OWNERS OF RECORD:** All owners having an ownership interest must sign the listing agreement.
  - c. **SELLER NOT OWNER OF RECORD:** When the Seller of a property does not hold title but has a contract to receive title on the property, the Listing Brokerage must indicate, "Seller does not yet own," in the "Ownership" field. *(Amended 01-11)*

A "Seller" is defined as the person or entity described as such in an Exclusive Right to Sell listing agreement or an Exclusive Agency listing agreement with respect to the property in question. *(New Section Approved 8-97)*



Entering a listing in the MLS without a valid, signed listing agreement is a Category II violation as described in Section 9.4.2 and carries a fine.

7. **DETAILS ON LISTINGS SUBMITTED TO THE SERVICE:** When a listing is submitted to the MLS, the Listing Brokerage shall complete the listing agreement and property data form in every detail which is reasonably ascertainable. The Listing Brokerage shall not enter the listing into the computer unless all required fields on the property data form and listing agreement are filled. When "other" is used in any field of a listing, the Listing Brokerage shall provide an explanation in the remarks field.
8. **LISTING PRICE SPECIFIED:** The Listing Brokerage must include the full gross listing price stated in the listing agreement in the information submitted to the Service, unless the property is subject to auction. If the property is subject to auction, the listing must include an actual list price, assessed value, starting bid or market value in the list price field. *(Amended 5-07)*
9. **TERMINATION DATE OF LISTINGS:** Listings submitted to the Service shall bear a definite and final termination date as negotiated between the Listing Brokerage and the Seller.

**SECTION 1.1: REQUIRED LISTINGS:** With the exception of commercial and rental listings, all Exclusive Right to Sell listings meeting the requirements of Section 1 and located within the Service Area are required to be submitted to the MLS.

Failure to input a new listing required to be entered into the MLS System is a Category II violation as described in Section 9.4.2 and carries a fine.

**SECTION 1.2: OPTIONAL LISTINGS:** The Listing Brokerage may, with the informed consent of the Seller/landlord, submit the following types of listings to the MLS.

1. **EXCLUSIVE AGENCY LISTINGS**
2. **PROPERTIES FOR LEASE:** The Listing Brokerage may submit to the MLS real property for lease, listed subject to a written agency agreement between a landlord and real estate broker to procure tenants or receive rents for the landlord's property, which makes it possible for the Listing Brokerage to offer cooperation and compensation to other Member Participants of the MLS.
3. **WITHHELD LISTINGS:** If the Seller refuses to permit the listing to be disseminated by the Service, the Listing Brokerage must submit a certification signed by the Seller that he/she does not want the listing to be disseminated by the Service within two business days from the "Marketing Date" (as it is known in North Carolina) or the beginning date of the term of the listing (for South Carolina). MLS recommends use of the "MLS Certification by Seller to Withhold Listing" form. Withheld listings cannot be entered into the MLS system by the Listing Brokerage once the listing is under contract.
4. MLS will accept but cannot require listings of property located outside the Service Area. *(Amended 6-17-99)*
5. **COMMERCIAL LISTINGS**

6. **AUCTION PROPERTIES:** MLS accepts exclusively listed property that is subject to auction (Absolute Auction or Auction With Reserve) or Online Auction; however, any listing submitted is entered into within the scope of the Listing Brokerage's licensure and in accordance with all other requirements for listing input. Such listings must include an actual list price, assessed value, starting bid or market value in the list price field, and all required fields must be completed. The "Starting Bid" must be an amount the seller would accept if it is the only bid received, in accordance with Section 4 of these rules. If a "Starting Bid" cannot be established in accordance with these rules, then an actual "List Price," "Assessed Value" or "Market Value" must be input into the "List Price" field. Compensation must be offered as described in the entire Section 6 of these rules. The auction firm name/auctioneer and auction firm/auctioneer license number must be included in the "Public Remarks" field, but no other contact information may be included in the "Public Remarks." Any other contact information or bidding website, if applicable, must be included in the "Agent Remarks."

**Absolute Auction:** An absolute auction, also known as an auction without reserve, means an auction where the real or personal property offered for auction is sold to the highest bidder (i) without the requirement of any minimum bid; (ii) without competing bids of any type by a seller or agent of a seller, and (iii) without any other limiting condition of sale. (NCAR Standard Form 601)

**Auction With Reserve:** An auction with reserve, also known as a sale subject to confirmation (this does not mean confirmation by a court, only acceptance by the seller), means an auction in which a seller reserves the right to establish a minimum bid, to accept or decline any and all bids, or to withdraw the property at any time prior to the announcement of the completion of the sale by the broker. (NCAR Standard Form 601)

**Online Auction:** Offers are submitted online using a third-party bidding opportunity, such as with bidselect.com, realtybid.com, HMBIREO.com, etc. Real estate brokers are cautioned to not cross the line separating real estate brokerage from auctioneering. An auctioneer license is required if there will be more than one round of bidding, and Listing Brokerages are encouraged to consult with NCREC and the N.C. Auctioneer Licensing Board for guidance. (*Revised 12-08*)

7. **FRACTIONAL LISTINGS:** MLS will accept fractional listings, but not timeshare listings. A fractional listing is defined as a listing where the buyer receives a recorded deed for a share of the property, while a timeshare listing is defined as a listing where the buyer receives a right to use the property, but not own any portion of the property itself. Legal restrictions can apply to fractional ownership, including state real estate law, private deed restrictions and federal/state securities law. If a Participant chooses to enter a fractional listing into the MLS, (i) "Fractional Ownership" under the "Special Conditions" field must be selected, and (ii) the number of shares or amount of ownership must be expressed as either a percentage or a fraction (for example: "Fractional ownership of 75%" or "Fractional ownership of  $\frac{3}{4}$ ") in the first line of the "Public Remarks" field. Shares of an LLC cannot be listed in MLS because the sale of shares of an LLC involves legal situations that are not typical of real estate sales.

**SECTION 1.3: PROHIBITED LISTINGS:** MLS does not regulate the type of listings Member Participants may take. However, MLS does not accept Net Listings, Open Listings or business opportunities (including but not limited to shares of an LLC).

**NET LISTINGS:** A brokerage fee arrangement in a listing contract whereby the Seller will receive a fixed price for his property and the broker will receive any amount realized (i.e., the “net”) in excess of that price. Net listings are deemed unethical and, in most states, illegal. The Real Estate Commission (both North and South Carolina) strongly discourages the use of Net Listing agreements.

**OPEN LISTINGS:** A contractual agreement under which the listing broker acts as the agent of the Seller(s), and the Seller(s) agrees to pay a commission to the listing broker only if the property is sold through the efforts of the listing broker. 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.  
(Amended 1-07)

**CO-LISTINGS:** Listings that are co-listed with other licensees who are not Member Participants or Subscribers of MLS must not be entered into the MLS.

**SECTION 1.4: LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE:**

All listings taken by Member Participants are subject to these rules. The Listing Brokerage must input each listing required to be submitted to the Service after obtaining the Seller’s signature on the listing agreement and within 48 hours (excluding holidays and weekends) of the “Marketing Date” (as it is known in North Carolina) or the beginning date of the term of the listing (for South Carolina). Withheld listings as defined in Section 1.2 #3 cannot be entered into the MLS system by the Listing Brokerage once the listing is under contract.

**SECTION 1.5: LIMITED SERVICE LISTINGS:** Listing agreements under which the Listing Brokerage will not provide one, or more, of the following services:

- a. arrange appointments for Cooperating Brokerages to show listed property to potential purchasers but instead gives Cooperating Brokerages authority to make such appointments directly with the Seller(s);
- b. accept and present to the Seller(s) offers to purchase procured by Cooperating Brokerages but instead gives Cooperating Brokerages 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; or
- e. participate on the Seller(s) behalf in negotiations leading to the sale of the listed property.

The Listing Brokerage must identify any Limited Service Listing by entering “no” in the “Full Service” field in the MLS System to inform potential Cooperating Brokerages, prior to them initiating efforts to show or sell the property, of the extent of the services the Listing Brokerage provides to the Seller(s), and any potential for the Seller(s) to ask the Cooperating Brokerages to provide some or all of these services. (New Section Approved 3-03)

Failure to indicate that a listing is a Limited Service Listing is a Category II violation as described in Section 9.4.2 and carries a fine.

**SECTION 1.6: DUPLICATE LISTINGS:** Duplicate listings can be misleading, skew statistics and make Comparative Market Analyses (CMAs) cumbersome. No more than three active listings are allowed in the System per Parcel ID number. All duplicate listings must be cross referenced in the “Public Remarks” field with the additional MLS numbers, and each listing must be maintained concurrently. If the property sells, the Listing Brokerage must report the pending sale and closing on only one listing, and change any additional listings to “Temporarily off Market” or “Withdrawn” status.

**Prohibited:**

- Properties cannot be listed as a “three bedroom” listing and as a “four bedroom” listing, entered once in each of two different subdivisions, in more than one city, county, zip code, property style, etc.
- A condo/townhouse unit cannot be entered as a residential single family listing. Conversely, single family cannot be entered as residential condo/townhouse.
- A listing cannot be added more than once to gain additional exposure as another “new” listing, to obtain an extension for a listing or if a mistake was made when entering information on a listing. Rather, MLS should be contacted for assistance to update an expiration date or correct the error.
- Properties that are co-listed cannot be listed more than once.
- Sometimes more than one broker claims to have a valid listing agreement for the same property. Always search the database prior to entering a new listing to ensure that a listing is not a duplicate. Generally, MLS does not determine the validity of claims of competing contracts. The brokers and seller are responsible for resolving the validity questions prior to entering a listing into the MLS. Entering a listing into the MLS without a valid written listing agreement and failure to withdraw a listing upon termination of a listing agreement are both Category II violations as described in Section 9.4.2 and carry a fine.

**Allowed:**

- Properties with multiple parcels can be listed together, separately or both; however, properties can be listed separately only if they can be purchased separately. Listings of property to be subdivided must comply with Section 1.24.
- A single family or condo/townhouse property listed for sale that can also be leased can be listed in the rental section as well.
- A property with a structure on it that is marketed for the land value can be listed under Lots/Acres/Farms and other applicable property type(s) (e.g., Single Family, Commercial, etc.).
- A duplicate listing can be submitted in the applicable property type(s) when the highest and best use is inconsistent with current zoning. If the property is non-conforming or requires rezoning (e.g., a single-family property listed as commercial), it must be disclosed in Public Remarks.
- New construction listings with model homes proposed can have a single listing for each model offered by the builder, provided that there are sufficient lots to build all entries. Each listing must be attached to a specific lot, and the list price must be reflective of the lot on which it is listed. Additionally, each listing must

provide a valid address, legal description and accurate zoning. If there is no "Street Number," then use the lot number in the "Street Number" field as well as the "Lot/Unit" field.

- A single family listing with a rental unit (attached or a separate building) can be listed under Single Family with a Second Living Quarters and as a multi-family property.
- Properties can be listed by the same broker under multiple firms.
- "Flip/Seller-does-not-yet-own" listings: "LISTING A" must be reported as "Under Contract-No Show" status upon execution of the purchase agreement, indicating that "SELLER A" is no longer seeking showings or backup offers. "LISTING B" (the flip) will appear as "Active" status in the system. "LISTING B" must indicate "Seller does not yet own," in the "Ownership" field (see Section 1 #6c). When a buyer is found for "LISTING B," both sales, "LISTING A" and "LISTING B," must be reported as "Closed." If the sale of "LISTING A," and subsequently also the sale of "LISTING B," depends upon third-party approval of the contract to purchase "LISTING A" that must be disclosed. However, "LISTING B" cannot indicate that the commission may be reduced by the lender, because "LISTING B" is not a short sale. MLS recommends the following disclosures in the Agent Remarks:

**LISTING A:** This property is subject to a purchase agreement, and the buyer has re-listed the property for sale. Refer to MLS#?? for showings and offers. Potential short sale. Offers and commission subject to third-party approval. Any reduction in the gross commission required by the lender as a condition of approving the sale will be split ## percent to the Listing Brokerage and ## percent to the Cooperating Brokerage.

**LISTING B:** "Property subject to a purchase agreement that is a short sale and requires third-party approval. Seller does not yet own the property. Closing will occur upon seller procuring a subsequent buyer at favorable terms.

**SECTION 1.7: RETENTION OF RECORDS:** The Listing Brokerage must keep on file the originals of all the listing forms in accordance with state licensing law and must make them available to the MLS upon request. *(Amended 6-05)*

Failure to provide MLS with requested documentation within 48 hours is a Category II violation as described in Section 9.4.2 and carries a fine.

**SECTION 1.8: CORRECT PLACEMENT OF LISTING AGENT, LISTING BROKERAGE AND SELLER BRANDING ON MLS LISTINGS:** "Branding" is defined as any information that might lead a consumer directly back to the listing agent, Listing Brokerage or Seller, including, but not limited to: phone numbers; e-mail addresses; websites that give reference to the listing agent, Listing Brokerage or Seller; company and/or personal names; "for-sale" signs (excluding signs required by neighborhood restrictions if the text of the sign is illegible); logos; slogans; recorded sound that gives reference to the listing agent, Listing Brokerage or Seller; and theme songs. Branding is prohibited in the "Public Fields" of a listing defined as fields provided on the Customer Report, Client Portal, and distributed in

the IDX Database, including but not limited to Photos, Photo Captions, Virtual Tours and videos, Directions, Remarks, Restrictions (Lots/Acres/Farms, and Commercial).

The Virtual Tour Universal Resource Locator (“URL”) may not contain any characters within the URL which could identify or direct a user back to the listing agent, Listing Brokerage or Seller’s website, or any “favicon” resembling the listing agent, Listing Brokerage or Seller logo. Virtual tours and videos may not contain Branding other than the virtual tour vendor’s name, and if the listing agent or Listing Brokerage is the virtual tour vendor, the name of the listing agent or Listing Brokerage cannot be included.

In addition, Public Fields cannot include content such as:

- any reference to commission, compensation, referral fees or incentive offered to a buyer’s agent;
- any reference to a scheduled open house/model open/sales office open or to a TV showing of the property; or
- instructions to place offers on eBay or other auction websites. (Amended 10-11)

**SECTION 1.9: SECURITY OF PROPERTY:** The Listing Brokerage must not put combination lockbox codes or security system codes in any field of the MLS System. An infraction of this rule is a Category II violation as described in Section 9.4.2 and carries a fine. *(Amended 5-09)*

**SECTION 1.10: SELLER’S NAME ON LISTING:** If Seller(s) (excluding Member Participants and Subscribers of MLS) indicate on the listing agreement to withhold their names and other contact information, the Listing Brokerage may honor this stipulation and not submit that information to the Service.

Member Participants and Subscribers must show their name(s) in the Seller field, and check “Yes” in the Agent/Owner field, if they are the owners of or have an ownership interest in the property submitted to the Service. If the owner is not obvious (i.e., ownership by a business entity and the Member Participant or Subscriber has an ownership interest), the Listing Brokerage shall make the disclosure in the Agent Remarks section. *(Amended 5-08)*

**SECTION 1.11: VERIFICATION OF INFORMATION:** MLS is not responsible for verifying listing information.

**SECTION 1.12: SUBDIVISION LIST:** The Listing Brokerage must provide verification of any new subdivision or complex name to be added to the MLS System before MLS will add it to the list. Appropriate forms of verification (in order of preference) are a copy of a deed or a copy of the approved preliminary subdivision plat map. If the marketing name is different from the name that was actually recorded, a photograph of the entry monument, or a professionally designed brochure or website for the subdivision, can accompany a copy of a deed or a copy of the approved preliminary subdivision plat map. Any request to add a subdivision or complex name that cannot be verified as described by this rule must be approved by the MLS Board of Directors. MLS staff does not accept complaints alleging “incorrect subdivision” regarding neighborhoods or subdivisions without defined boundaries. *(Amended 06-13)*

**SECTION 1.13: LISTING INPUT FEES:** Member Participants and Subscribers may request MLS staff to enter their listings into the computer for \$25 per listing.

The MLS office can only make changes to the information of a listing if the changes are requested in writing (e-mail is acceptable) by the Listing Brokerage. In order for MLS staff to withdraw a listing, the Member Participant must complete and sign the MLS Withdrawal/Temporarily off Market Notice form. (*Amended 11-98*)

**SECTION 1.14: CHANGE OF STATUS OF LISTING:** The Listing Brokerage must input any change in listed price or other change in the original listing agreement, only when authorized in writing by the Seller(s) and within 48 hours (excluding holidays and weekends) after the Listing Brokerage receives the authorized change.

**SECTION 1.14.1: LISTING STATUSES:** MLS uses the following status types to indicate a property's availability:

- **ACTIVE:** The listing is available with no contingencies, contract or rental application registered against it. Short sale listings cannot be left on "Active" status while the buyer and seller are waiting for lender approval of the contract. "DOM" and "CDOM" accrue from the date entered in the "Listing Contract Date" or the "Expected Active Date."
- **UNDER CONTRACT-SHOW:** The listing is under contract but is still available for showing, and backup offers are being solicited.
- **UNDER CONTRACT-NO SHOW:** The listing is under contract, showings are no longer being sought and backup offers are not being solicited.
- **COMING SOON-NO SHOW:** There is a valid listing agreement between the Seller and the Listing Brokerage. Listings in Coming Soon-No Show status must obtain seller approval (see Coming Soon-No Show status seller authorization). The listing brokerage and the seller are preparing the property for sale before marketing as Active status. This status is not intended to give the listing brokerage an advantage in finding a buyer for the property to the detriment of cooperating brokers, nor is it intended to circumvent the sale of the property on an open market. The intended use of this status is to provide a method for Participants and Subscribers to notify other Participants and Subscribers of properties that will be made fully available for showing and marketing after preparations have been completed. While the property is in Coming Soon-No Show status, the seller and the listing broker may not promote or advertise the property on the Internet in any manner. Coming Soon-No Show status listings are displayed only in the MLS system. Coming Soon-No Show status listings are NOT displayed on the Internet, are NOT included in MLS advertising data feeds, and cannot be displayed anywhere on the Internet or displayed on broker, agent, public or syndication websites. Coming Soon-No Show status is for short-term use to prepare for Active status, and can only be used for 21 days or less.

Properties in Coming Soon-No Show status may not be shown. Any showing of a property in Coming Soon-No Show status disqualifies the property from that status and is a Category III violation as described in Section 9.4.3 and carries a fine.

- **APPLICATION RECEIVED** - The property is available but a rental application has been registered on it. "Application Received" status listings are available for showing.
- **CLOSED** - The property is rented or sold and settled.

- **TEMPORARILY OFF MARKET** - The listing brokerage has agreed to discontinue marketing the property at the seller's request, but the listing agreement has not been terminated. Not available for showing. Seller authorization required.
- **EXPIRED** - Listings automatically expire on the expiration date unless prior to that date the listing brokerage extends or renews the listing agreement.
- **WITHDRAWN** - The listing agreement has been terminated prior to its listing expiration date. Only Member Participants with head-broker or office-broker permissions in the MLS system can withdraw listings. Withdrawn listings cannot be returned to "Active" status.

**SECTION 1.14.2: STATUS CHANGE CONSTRAINTS:** A listing broker may not re-list a property in Coming Soon-No Show status unless the listing has been in Expired or Withdrawn status for more than 90 days, the property is listed with a new brokerage firm, or the property has been sold or rented. Listings may not be transferred from any other status to Coming Soon-No Show.

**SECTION 1.15: TEMPORARILY-OFF-MARKET/WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** The Listing Brokerage may make a listing temporarily-off-market or withdraw it from the MLS before the expiration date of the listing agreement only when authorized by the Seller(s) and agreed to by the Listing Brokerage in writing. Any listing made temporarily-off-market continues to accrue days on market until the listing expires or the status is updated.

Sellers do not have the unilateral right to require the MLS to withdraw a listing without the Listing Brokerage's concurrence. However, when a Seller(s) can document that he has terminated his exclusive relationship with the Listing Brokerage, the MLS may remove the listing at the request of the Seller. Failure to withdraw a listing upon termination of a listing agreement is a Category II violation as described in Section 9.4.2 and carries a fine.

Any change to a listing agreement shall not constitute a new listing unless the change is made following the expiration. *(Amended 3-03)*

#### **SECTION 1.16: REMOVED (07-12)**

**SECTION 1.17: NAMED PROSPECTS EXEMPTED:** Seller(s) may name prospects who are exempt from the listing agreement. If a named prospect exempt from the listing agreement buys the property, the Seller(s) is not obligated to pay a commission to the Listing Brokerage. The Listing Brokerage must clearly distinguish Exclusive Agency and Exclusive Right to Sell listings with named prospects exempted by entering "yes" in the "Named Prospects Exempted" field in the MLS System.

**SECTION 1.18: LISTING MULTIPLE UNIT PROPERTIES:** The Listing Brokerage may enter Multiple Unit Properties into the MLS as one listing, stating the number and types of units available. When an individual unit has been sold, the Listing Brokerage must enter the unit into the MLS System for comparable purposes. Multiple Unit Properties include condos, townhouses and single family new construction where multiple units are listed with a single listing.



**SECTION 1.19: EXPIRATION OF LISTINGS:** Listings submitted to the MLS automatically expire on the expiration date specified in the listing agreement unless prior to that date the Listing Brokerage extends or renews the listing agreement. If the Listing Brokerage renews or extends the listing after it has expired, the Listing Brokerage may either return the listing to active or enter a new listing. The Seller(s) must sign the extension or renewal of listing and the Listing Brokerage must report the extension or renewal to the MLS.

Listings that are in “Under Contract-Show” or “Under Contract-No Show” status remain as “Under Contract-Show” or “Under Contract-No Show” status until the Listing Brokerage changes the status once the sale is closed, the listing is returned to active, or withdrawn. If the listing agreement expires while the listing is in “Under Contract-Show” or “Under Contract-No Show” status and no sale occurs, and the Listing Brokerage has not extended or renewed the listing agreement, then the Listing Brokerage must withdraw the listing within 48 hours (excluding holidays and weekends). Failure to report a listing’s change of status within 48 hours is a Category II violation as described in Section 9.4.2 and carries a fine.

**SECTION 1.20: LISTINGS OF EXPELLED OR SUSPENDED MEMBER PARTICIPANTS:** When MLS expels or suspends a Member Participant of the Service for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Catawba Valley Association of REALTORS®. (CVAR®) Association Bylaws or bylaws of the association to which they belong, MLS Bylaws, *MLS Rules and Regulations*, or other membership obligations except failure to pay appropriate dues, fees or charges), MLS must retain all listings currently submitted to the MLS by the expelled or suspended Member Participant, at the Member Participant’s option, until sold, withdrawn or expired and MLS must not renew or extend the listings beyond the termination date of the listing agreement in effect when the suspension became effective. If a Member Participant has been expelled or suspended from the CVAR® or MLS (or both) for failure to pay appropriate dues, fees or charges, MLS is not obligated to provide services, including continued inclusion of the expelled or suspended Member Participant’s listings in the MLS Compilation of current listing information. Prior to any removal of an expelled or suspended Member Participant’s listings from the MLS, MLS will advise the expelled or suspended Member Participant in writing of the intended removal so that the expelled or suspended Member Participant may advise his/her clients.

**SECTION 1.21: LISTINGS OF RESIGNED MEMBER PARTICIPANTS:** When a Member Participant resigns from the Service, MLS is not obligated to provide services, including continued inclusion of the resigned Member Participant’s listings in the MLS Compilation of current listing information. Prior to any removal of a resigned Member Participant’s listings from MLS, MLS must advise the resigned Member Participant in writing of the intended removal so that the resigned Member Participant may advise his/her clients.

**SECTION 1.22: MEDIA:** With the exception of land, at least one digital image (photo/plat map/rendering) of each property listed in the MLS shall be submitted to the Service immediately upon saving the listing as “Active,” except where sellers expressly direct that photographs of their property not appear in the MLS compilations. However, an image or photo is not required of any listing in Coming Soon-No Show status until such time that the listing’s status is changed. Written documentation requesting that a digital image not be submitted, signed by the seller, should be available for review if requested by the Service. At least one photo must be an exterior view of the property structure for sale with the exception that for land, a plat or map of the specific property is acceptable. All photos uploaded must be representative of the property, landscape, views, neighborhood and surrounding community. If using a photograph (excluding artist renderings) that is similar to but not a

photograph of the actual listing, users must include a disclaimer “example photo” across the photograph.

In addition to digital images, the Listing Brokerage may submit, virtual tours, PDF documents, text files and artist renderings (“Media”). MLS requires the Listing Brokerage to obtain the necessary rights to use and reproduce the Media from the copyright holder for use by the MLS and all other authorized entities anywhere the MLS data is intended to appear. The Listing Brokerage indemnifies MLS in the event of any legal proceeding relating to the reproduction of the Media by MLS or other authorized entities. By submitting Media to the MLS, the submitting Listing Brokerage grants the MLS and the other Member Participants and Subscribers the right to reproduce and display the Media in accordance with these rules and regulations. Member Participants and Subscribers may use Media from the MLS only for purposes of finding buyers for properties listed in the Service or for the preparation of appraisals, consistent with the rules and regulations MLS reserves the right to reject or remove any digital image submitted that includes any embedded, overlaid, or digitally stamped text, personal advertising or promotion as well as people or persons. Before a Member Participant or Subscriber copies the Media submitted by another Listing Brokerage to a new listing, the Member Participant or Subscriber must obtain the written permission of the owner of the Media. *(Amended 1-15)*

**SECTION 1.23: MLS RIGHT TO EDIT OR DELETE A LISTING:** MLS reserves the right to delete or edit a listing that violates the *MLS Rules and Regulations* or any applicable laws upon advice of legal counsel and may make administrative corrections of property information necessary to ensure accuracy or consistency in MLS compilations.

**SECTION 1.24: LISTINGS OF PROPERTY TO BE SUBDIVIDED:** Property that is to be subdivided shall be listed in the MLS only when (i) the proposed division is exempt from the local subdivision ordinance, or (ii) when the property is subject to a purchase contract that satisfies all of the requirements of applicable law including, but not necessarily limited to North Carolina General Statutes Section 153A-334. Participants are encouraged to obtain advice of legal counsel to determine whether either of the above conditions has been satisfied. MLS does not determine whether such condition or conditions have been satisfied, and makes no representation as to whether any listing in the MLS does or does not comply with such condition(s). Upon listing a property that does not have final subdivision approval, the Participant shall be deemed to have represented to MLS and to all other Participants that one or the other of the above conditions has been satisfied. *(Revised 10-08)*

### **SUPRA DISPLAY KEY, EKEY AND LOCKBOXES** *(New Section Approved 06-05)*

**SECTION 2: SUPRA DISPLAY KEY, EKEY, AND LOCKBOXES:** Member Participants and Subscribers must use the Supra DisplayKEY (the standard Key issued by the MLS), eKEY (an alternative to the Display KEY which requires software to be installed on a smartphone or Personal Digital Assistant (PDA) enabling the device to open a Lockbox) and Lockboxes in accordance with the terms and conditions specified by the DisplayKEY Lease and Software Sublicense Agreement, in addition to these additional policies. Any violation of a rule contained in this entire Section 2 is a Category III violation as described in Section 9.4.3 and carries a fine.

**A. KEY:** Refers to both the Supra DisplayKEY and the eKEY.

**B. KEYHOLDER:** Means a Member Participant or Subscriber of MLS in good standing who is entitled to use the Supra System (includes electronic keys, Lockboxes, KIM Web, KIM Voice, KIM Client and support) in accordance with Keyholder Agreement with Supra, or a lease, sublease or sublicense with MLS, CarolinaMLS Lease and License Terms. All Realtor® Keyholders and MLS Subscribers described above must hold a valid real estate sales or broker's license or be certified by an appropriate state regulatory agency to engage in the appraisal of real property in North Carolina or South Carolina where the Supra System will be used.

**C. AFFILIATE KEYHOLDER:** Means an affiliate member of CVAR or an affiliate member of another Realtor® association where MLS is the primary MLS, as defined in subsections (1) and (2) below.

- I. **Inspectors:** Home, Radon, Pest and Structural Engineers qualify, provided proof of licensure is presented and, if applicable, proof that individual is an affiliate member, in good standing, of another Realtor® association.
- II. **Photographers/Virtual Tour Developers:** Individual must be an employee or contractor of a real estate firm and Key Lease Agreement must be co-signed by the Member Participant for the office. In addition, the Member Participant of the office must make a formal request in writing. (Amended 5-08)

Unlicensed assistants are not permitted to lease a Supra Key.

**D. LOCKBOX:** Refers to the individual Lockboxes and the iBox system manufactured by Supra leased and sold to Member Participants and Subscribers. The term "Lockbox" May also include combination lockboxes. (*Approved New Section 6-05*)

**E. POSSESSION OF KEY:** Each DisplayKEY or eKEY holder may possess only one Key (whether a Supra DisplayKEY or an eKEY) at a time. If a Key is lost or requires replacement for any reason, the replacement cost for the Key shall be the replacement price set forth in Membership Policies and Procedures. Each office may have an "emergency" office Key assigned to the Member Participant who is solely responsible for it.

Keyholders must immediately report a stolen Key to the Member Services Department. The Member Services Department will not charge for the stolen Key if a copy of a filed police report is provided to staff within one week of the notice. If the police report is not provided, fees for a replacement Key will apply (See Membership Policies and Procedures).

**F. CURRENT UPDATE CODE:** The Key has an update code that expires daily to prohibit further use of the Key until a new current update code is obtained from Supra or the Member Services Department and entered into the Key. Update codes shall be issued only to Keyholders in good standing with the MLS. A Keyholder is in good standing if he or she is in full compliance with all obligations related to the Service and Supra System, including, without limitation, the terms of these Rules and Regulations.

**G. SECURITY OF EQUIPMENT:** Each Keyholder must maintain the security of each Key and the Personal Identification Number ("PIN") of each Key to prevent the use of the Key by unauthorized persons. Each Keyholder, whether such Key is being actively used or not, shall abide by the following conditions:

1. to keep the Key in the Keyholder's possession or in a safe place at all times;

2. not to allow the PIN for the Key to be attached to the Key for any purpose whatsoever or to be disclosed to any third party;
3. not to lend or otherwise transfer the Key to any other person or entity, or permit any other person or entity to use the Key for any purpose whatsoever, whether or not such other person or entity is a real estate broker;
4. not to duplicate the Key or allow any other person to do so;
5. not to assign, transfer or pledge the Key;
6. not to destroy, alter, modify, disassemble or tamper with the Key or knowingly or unknowingly allow anyone else to do so;
7. to notify the Member Services Department immediately in writing of a loss or theft of the Key or any Lockboxes, and of all circumstances surrounding such loss or theft;
8. to pay in full for any lost or stolen Key or cradle or to complete and deliver to the Member Services Department a stolen Key affidavit prior to and as a condition of the issuance of a replacement Key;
9. to follow all additional security procedures as specified by the MLS; and
10. to safeguard the code for each Lockbox from all other individuals and entities, whether or not they are authorized users of the Supra System.

**H. AUTHORIZATION:** The property owner, as well as any tenant(s) in possession of the property, if applicable, must provide prior written authorization to install or use a Lockbox before a Lockbox is installed or used on any piece of real property. MLS requires a written agency agreement to install or use an iBox on any real property. Keyholders must use extreme care to ensure that all doors to the listed property and the Lockbox are locked. The Listing Brokerage must inform all owners and tenant(s) of real property that the Lockbox is not designed or intended as a security device. *(Amended 8-05)*

**I. STATEMENT OF ADMINISTRATIVE PROCEDURES AND OPERATING STANDARDS:**

Each Keyholder acknowledges that the use of the Supra System is also subject to the terms and conditions of the Supra Administration Agreement and that failure of Supra or the MLS to perform any of their respective obligations under the Administration Agreement may detrimentally affect such party's use of the Supra System. Each Keyholder expressly waives any right to exercise any right or remedy arising under, relating to or by virtue of any default by any person under the Administration Agreement or under any other agreement executed and delivered in connection with the use or leasing of the Supra System between MLS and Supra. Each Keyholder further acknowledges and agrees that the MLS may exercise any remedies any of them may have under the Administration Agreement.

**J. ACKNOWLEDGMENT:** Each party using the Supra System hereby acknowledges that it is not a security system. The Supra System is a marketing convenience key control system, and as such, any loss of Keys or disclosure of Personal Identification Numbers compromises the integrity of the Service and the Supra System, and each party agrees that it will use its best efforts to insure the confidentiality and integrity of all components.

**K. LOCKBOXES:** Each firm is responsible for maintaining up-to-date records of the location of each Lockbox leased to the firm's Member Participants and Subscribers.

1. Keyholders must notify the Member Services Department of transfers of ownership of Lockboxes from one firm or individual to another by completing the necessary Lockbox Transfer Form.
2. Keyholders must never attach a Lockbox shackle code to a Lockbox.

**SECTION 2.1: UNAUTHORIZED USE OF KEY:** The lending of Keys for any reason is prohibited. Each Keyholder must secure the Key to prevent anyone from discovering the PIN number.

Keyholders using electronic Keys from other MLSs or associations that cooperate with MLS are subject to these Supra DisplayKEY, eKey and Lockbox rules and regulations, penalties and fines on the same terms as all other Keyholders.

**SECTION 2.2: RIGHT TO SUSPEND USE OF KEY:** The Service may refuse to lease a Key, may terminate an existing Key lease agreement, and may refuse to activate or reactivate any Key held by an individual convicted of a felony or misdemeanor, or who is under investigation by the NCREC or the South Carolina Real Estate Commission, if the crime or circumstances of the investigation, in the determination of the Service with subsequent approval of the MLS Board of Directors (Described under Article VI of the MLS Bylaws), relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

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

Factors the MLS Board of Directors can consider in making such determinations include, but are not limited to:

- a) that nature and seriousness of the crime,
- b) the relationship of the crime to the purposes for limiting Lockbox access,
- c) the extent to which continued access might afford opportunities to engage in similar criminal activity,
- d) the extent and nature of past criminal activity,
- e) time since criminal activity was engaged in,
- f) evidence of rehabilitation while incarcerated or following release, and
- g) evidence of present fitness.

**SECTION 2.3: LISTING ACCESSIBILITY:** MLS requires placement of an “approved” lockbox on listed properties if any device giving access to real estate professionals or service providers is authorized by the seller and occupant and is placed on the property. The purpose of this requirement is to ensure cooperating participants and subscribers have timely access to listed properties. Requiring that a lockbox or other access device be “approved” does not limit the devices that satisfy the requirement to lockboxes leased or sold by MLS. MLS may require that the devices be submitted in advance for approval, and the access device may be any lockbox or other access device that provides reasonable, timely access to listed property. MLS also may revoke the approval or subject the participant to discipline if the device is used in a manner that fails to continue to satisfy this requirement.

An infraction of this rule is a Category I violation as described in Section 9.4.1. Respondents to alleged violations shall demonstrate compliance with the rule within two business days.  
(Amended 6-17)

## **SELLING PROCEDURES**

**SECTION 3: SHOWINGS AND NEGOTIATIONS:** The Cooperating Brokerage must arrange appointments for showings and conduct negotiations for the purchase of listed property submitted to the Service with the Listing Brokerage except under the following circumstances:

- A. The Listing Brokerage gives the Cooperating Brokerage (either subagent or buyer agent) specific authority to show or negotiate directly with the Seller, or
- B. After reasonable effort, the Cooperating Brokerage (subagent or buyer agent) is unable to contact the Listing Brokerage. However, the Listing Brokerage may preclude such direct negotiations by the Cooperating Brokerage (either subagent or buyer agent).

An infraction of this rule above is a Category III violation as described in Section 9.4.3 and carries a fine.

If negotiations are carried on under Section 3(A) or 3(B) hereof, the Cooperating Brokerage shall report accepted offers and prices that are fully executed to the Listing Brokerage in writing within 48 hours (excluding holidays and weekends) after the "Effective Date" as defined in the purchase agreement, or as otherwise determined under applicable state law, and the Listing Brokerage shall report accepted offers and prices that are fully executed to the MLS within 48 hours (excluding holidays and weekends) after receiving notice from the Cooperating Brokerage. A violation of this paragraph is exempt from Section 9.4.1 F.

The Cooperating Brokerage (subagent or buyer agent) must disclose his agency status to the Listing Brokerage at first contact with the Listing Brokerage (in person, by telephone or in writing).

The Cooperating Brokerage must notify the Listing Brokerage in the event an appointment is cancelled.

**SECTION 3.1: PRESENTATION OF OFFERS:** The Listing Brokerage must make arrangements to present any offer as soon as possible, or give the Cooperating Brokerage a satisfactory reason for not doing so.

**SECTION 3.2: SUBMISSION OF WRITTEN OFFERS:** The Listing Brokerage must 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 Brokerage. Unless a subsequent offer depends upon the termination of an existing contract, the Listing Brokerage 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.  
*(Amended 10-06)*

**SECTION 3.3: RIGHT OF COOPERATING BROKERAGE IN PRESENTATION OF OFFER:** The Cooperating Brokerage has the right to participate in the presentation to the Seller of any offer he/she secures to purchase unless the Seller gives written instructions to the contrary. He or she does not have the right to be present at any discussion or evaluation of that offer by the Seller and the Listing Brokerage. If the Seller gives written

instructions to the Listing Brokerage that the Cooperating Brokerage not be present when an offer the Cooperating Brokerage secured is presented, the Cooperating Brokerage has the right to a copy of the Seller's written instructions. None of the foregoing diminishes the Listing Brokerage's right to control the establishment of appointments for such presentations. An infraction of this rule is a Category II violation as described in Section 9.4.2 and carries a fine. *(Amended 10-97)*

**SECTION 3.4: RIGHT OF LISTING BROKERAGE IN PRESENTATION OF COUNTER-OFFER:**

The Listing Brokerage has the right to participate in the presentation of any counter-offer made by the Seller unless the purchaser gives written instructions to the contrary. He or she does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser (except when the Cooperating Brokerage is a subagent). If the purchaser gives written instructions to the Cooperating Brokerage that the Listing Brokerage not be present when a counter-offer is presented, the Listing Brokerage has the right to a copy of the purchaser's written instructions. An infraction of this rule is a Category II violation as described in Section 9.4.2 and carries a fine. *(Amended 10-97)*

**SECTION 3.5: REPORTING CONTRACTS AND SALES TO THE SERVICE:** All Member Participants and Subscribers are obligated to report status changes, including final closings of sales, on listings submitted to the Service, regardless of the level of service or type of listing agreement associated with the listing. Reporting sales information is a condition of submitting any listing to the Service.

- a. Pending sales shall be reported to the MLS (Under Contract-Show or Under Contract-No Show status) by the Listing Brokerage within 48 hours (excluding holidays and weekends) after the "Effective Date" as defined in the purchase agreement, or as otherwise determined under applicable state law.
- b. Pending sales that will remain on the market shall be reported as such to the MLS (Under Contract-Show status) by the Listing Brokerage within 48 hours (excluding holidays and weekends) after the "Effective Date" as defined in the purchase agreement, or as otherwise determined under applicable state law.
- c. When a complete application (including all signed paperwork and any associated application fees) is received by the Listing Brokerage for real property for lease, the status shall be reported to the MLS as "Application Received" within 24 hours (excluding holidays and weekends).
- d. The Listing Brokerage shall report to the MLS the cancellation of any pending sale and, unless it has expired, the listing shall be reinstated (back-on-market status) within 48 hours (excluding holidays and weekends) after the Listing Brokerage becomes aware of the cancellation.
- e. The Listing Brokerage shall report closed sales and sales prices to the MLS (sold status) within five days (excluding holidays and weekends) after the closing. For new-construction listings, a valid street address must be reported to the MLS as soon as possible and no later than the close of the sale.
- f. The Listing Brokerage shall withdraw any Exclusive Agency listing which the Seller sells without the assistance of either the Listing Brokerage or a Cooperating Brokerage (do not report as "Closed").

Failure to report a listing's change of status as described above is a Category II violation as described in Section 9.4.2 and carries a fine. *(Amended 10-15)*

**SECTION 3.6: DATA ENTERED FOR "COMPARABLE PURPOSES":** Sales input for comparable purposes must provide at least one photo, must provide complete data in all required fields, and the "Listing Agent" and "Selling Agent" fields must accurately reflect the

transaction side represented by the member. A copy of the listing agreement or buyer agency agreement, purchase agreement and settlement statement must be maintained in the company files and can be requested by the MLS staff to verify the information entered into the MLS system.

The following types of pending sales can be reported to the MLS (Under Contract-Show or Under Contract-No Show status) by the Listing Brokerage, but are not required. When pending sales are reported the data must be input within 48 hours (excluding holidays and weekends) after the "Effective Date" as defined in the purchase agreement, or as otherwise determined under applicable state law.

- New construction listed as a multiple unit property as defined in Section 1.18. A valid street address must be reported to the MLS as soon as possible and no later than the close of the sale.
- "Withdrawn" or "Expired" listings if the sale occurs as a result of the property having been listed in the MLS, and the listing brokerage represents the seller in the transaction.

Withheld listings as defined in Section 1.2 #3 cannot be entered into the MLS system by the Listing Brokerage once the listing is under contract.

**Unlisted Buyer Agent Sales:** Buyer agents can report closings of unlisted property (i.e., for sale by owner listings) and closings of withheld listings as defined in Section 1.2#3 within five business days after the closing if the sale and buyer were subject to an Exclusive Buyer Agency Agreement. *(New Section Approved 03-15)*

**SECTION 3.7: ADVERTISING OF LISTINGS SUBMITTED TO THE SERVICE:** No one shall advertise a listing, other than the Listing Brokerage, without prior written consent of the Listing Brokerage.

**SECTION 3.8: DISCLOSING THE EXISTENCE OF OFFERS:** Listing Brokerages, in response to inquiries from buyers or cooperating brokers shall, with the Sellers' approval, disclose the existence of offers on the property. The Listing Brokerage shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a Cooperating Brokerage. *(Revised 06-10)*

**SECTION 3.9: AVAILABILITY OF LISTED PROPERTY:** Listing Brokerages shall not misrepresent the availability of access to show or inspect listed property. *(New Section 10-06)*

## **REFUSAL TO SELL**

**SECTION 4: REFUSAL TO SELL:** REMOVED 6-17

## **PROHIBITIONS**

**SECTION 5: INFORMATION FOR MEMBER PARTICIPANTS ONLY:** Member Participants and Subscribers may share a listing submitted to the Service with a Nonparticipant only with the prior written consent of the Listing Brokerage.

**SECTION 5.1: "FOR SALE" SIGNS:** No brokerage other than the Listing Brokerage may place a "FOR SALE" sign on the listed property. *(Amended 6-02)*



**SECTION 5.2: “SOLD” SIGNS:** Only the Listing Brokerage may place “Sold, Under Contract, Pending, etc.” signs on the property prior to closing, unless the Listing Brokerage authorizes the Cooperating Brokerage to post such a sign.

**SECTION 5.3: SOLICITATION OF LISTING SUBMITTED TO THE SERVICE:** Member Participants and Subscribers must not solicit a listing on property submitted to the Service unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics.

This rule does not prohibit communications between a Seller who is a party to a Limited Service Listing agreement and a Cooperating Brokerage as long as such communication complies with Section 3: Showings and Negotiations and the Real Estate Commission rules governing agency relationships. *(Amended 10-06)*

**SECTION 5.4: UNAUTHORIZED DISCLOSURE OF LOGIN NAME AND PASSWORD:** Only Member Participants, Subscribers and administrative assistants who are authorized by Member Participants may have access to the Service. Each user must use his or her own MLS login name and password, and he or she shall not disclose a MLS login name or password to anyone. An infraction of this rule is a Category IV violation as described in Section 9.4.4 and carries a fine. *(Amended 12-09)*

## **DIVISION OF COMMISSIONS**

**SECTION 6: COOPERATIVE COMPENSATION SPECIFIED ON EACH LISTING:** The Listing Brokerage must specify, on each listing submitted to the MLS, the compensation offered to other MLS Member Participants for their services in the sale of such listing. Offers of compensation are unconditional except that the Cooperating Brokerage's performance as the procuring cause of sale determines entitlement to compensation. An arbitration hearing panel may excuse the Listing Brokerage's obligation to compensate any Cooperating Brokerage as the procuring cause of sale if through no fault of the Listing Brokerage and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the Listing Brokerage to collect a commission from the Seller pursuant to the listing agreement. The arbitration hearing panel must determine whether the Cooperating Brokerage is entitled to receive the cooperative compensation offered through the MLS based on all relevant facts and circumstances including, but not limited to:

- why it was impossible or financially unfeasible for the Listing Brokerage to collect some or all of the commission established in the listing agreement;
- at what point in the transaction did the Listing Brokerage know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and
- how promptly did the Listing Brokerage communicate to Cooperating Brokers that the commission established in the listing agreement might not be paid.

**SECTION 6.1: COMPENSATION OFFERS ARE BLANKET, UNILATERAL, UNCONDITIONAL:** In submitting a listing to the MLS, the Member Participant of the MLS is making blanket unilateral offers of compensation to the other MLS Member Participants, and shall therefore specify on each listing submitted to the MLS, the compensation being offered to the other MLS Member Participants. Specifying the compensation on each listing is necessary, because the Cooperating Brokerage has the right to know what his/her compensation shall be prior to his endeavor to sell. The Listing Brokerage retains the right to determine the amount of compensation offered to other Member Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law) which may be the same or different.

**SECTION 6.2: ACCEPTABLE OFFERS OF COMPENSATION:** The compensation specified on listings submitted to the MLS by the Member Participants must appear in one of two forms: (Amended 10-97)

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

This shall not preclude the Listing Brokerage from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing brokerage informs the cooperating brokerage, in writing, in advance of the cooperating brokerage 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.

The Listing Brokerage may adjust the compensation offered to other MLS Member Participants for their services with respect to any listing by advance published notice to the MLS to advise all Member Participants.

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. (*Amended 10-06*)

**SECTION 6.2.1: SHORT SALES:** "Short Sales" is defined as a transaction where title transfers, where the sales 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. Potential short sales must be disclosed when reasonably known to the Listing Brokerage. Such disclosures must occur at the time of MLS input, if known, or within one (1) business day upon receipt of such knowledge. When disclosed, Listing Brokerages may, at their discretion, advise Cooperating Brokerages 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 brokerages. All confidential disclosures and confidential information related to short sales must be communicated through dedicated fields or confidential "remarks" available only to Member Participants and Subscribers, i.e., the "Agent Remarks" field. MLS suggests that the following disclosure or any similar language be entered at the time of input if known, or within one (1) business day upon receipt of knowledge.

"Potential short sale. Offers and commission subject to third-party approval. The total commission if reduced by the lender will be split ## percent to the Listing Brokerage and ## percent to the Cooperating Brokerage."

Note: If the Listing Brokerage does not disclose 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 the Listing and Cooperating Brokerage, then the Cooperating Brokerage can reasonably expect to be paid the cooperative compensation as published in the MLS, regardless of any reduction in the total commission to which the Listing Brokerage might agree. (*Revised 11-09*)

**SECTION 6.3: NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY MEMBER PARTICIPANTS:** The MLS must not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by Member Participants. Further, the MLS must not fix, control, recommend, suggest or maintain the division of commissions or

fees between cooperating Member Participants or between Member Participants and Nonparticipants.

The MLS must not publish the total negotiated commission on a listing that has been submitted to the MLS by a Member Participant. The MLS shall not disclose in any way the total commission negotiated between the Seller and the Listing Brokerage.

**SECTION 6.4: MEMBER PARTICIPANT AS PRINCIPAL:** A Member Participant or Subscriber with an ownership interest in a property must disclose that interest when the listing is submitted to the MLS.

**SECTION 6.5: MEMBER PARTICIPANT AS PURCHASER:** A Member Participant or licensee (including any licensed or certified appraiser or appraiser trainee) affiliated with a Member Participant who wishes to acquire an interest in property listed with another Member Participant must disclose his or her status, in writing, to the Listing Brokerage no later than the time an offer to purchase is submitted. *(New Section Approved 10-97)*

**SECTION 6.6: DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS:** The Listing Brokerage must disclose the existence of a dual or variable rate commission arrangement by entering "yes" in the "Variable Rate Commission" field in the MLS System. MLS recognizes two types of dual or variable rate commission arrangements:

1. The Seller agrees to pay a specified commission if the Listing Brokerage sells the property without assistance and a different commission if the sale results through the efforts of a Cooperating Brokerage; or
2. The Seller agrees to pay a specified commission if the property is sold by the Listing Brokerage either with or without the assistance of a Cooperating Brokerage and a different commission if the sale results through the efforts of a Seller.

The Listing Brokerage must, in response to inquiries from potential Cooperating Brokerages, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale that results through the efforts of the Seller. If the Cooperating Brokerage represents the buyer, the Cooperating Brokerage must disclose such information to his/her client before the client makes an offer to purchase.

## **MEMBERSHIP POLICIES AND SERVICE FEES**

**SECTION 7: MEMBERSHIP POLICIES AND SERVICE FEES:** Participation in and subscription to MLSCV is governed by Article 4 of the *MLSCV Bylaws* and subject to payment of these applicable fees. Refer to the *Membership Policies and Procedures* for a full description of all service fees and membership policies. *(New Section 3-05)*

**SECTION 7.1: MEMBERSHIP POLICIES:** All active real estate licensees, certified and licensed appraisers, and appraiser trainees affiliated with a Member Participant are required to subscribe to the MLS or apply for a waiver upon affiliation.

Failure of a Member Participant to ensure that all licensees affiliated with the Member Participant's firm apply to MLSCV upon affiliation is a Category I violation. A Category I Non-Compliance fine will be assessed if the appropriate paperwork is not received within one week of notification.

If a Member Participant does not annually submit a waiver renewal form for all licensed agents affiliated with his or her firm who waive the MLS, he or she will receive a Category I violation. A Category I Non-Compliance fine will be assessed if the appropriate paperwork is not received within two weeks of notification that a waiver renewal form for a licensee is due. *(Amended 07-12)*

**SECTION 7.2: SERVICE FEES:** The following Service fees for operation of the MLS are in effect to defray the cost of the Service and are subject to change from time to time in the manner prescribed.

**SECTION 7.2.1: INITIAL PARTICIPATION FEE:** An applicant for Participation in the Service must pay an Initial Participation Fee of \$600, as determined by the Board of Directors, with such fee to accompany the application. The Initial Participation Fee approximates the cost of bringing the Service to the Member Participant as determined by the Service from time to time with the approval of the Board of Directors.

**SECTION 7.2.2: SUBSCRIPTION FEES:** MLS provides one subscription to the Member Participant upon payment of the Initial Participation Fee and the applicable Subscription Fees of \$75 per month, assessed on a monthly basis as determined by the Board of Directors. *(Amended 3-05)*

MLS provides an additional subscription for each individual, employed by or affiliated as an independent contractor (including licensed and certified appraisers and appraiser trainees) with the Member Participant, who has access to and who utilizes the Service. All Subscribers affiliated with a Member Participant must pay a Start Up Fee of \$250, as determined by the Board of Directors and the applicable Subscription Fees of \$55 per month, assessed on a monthly basis, with such fee to accompany the application signed by the Member Participant.

**SECTION 7.3: UNAUTHORIZED USE OF THE SYSTEM:** Use of systems and information developed by or published by MLS is strictly limited to the activities authorized under a Member Participant's licensure(s) or certification and unauthorized uses are prohibited. Examples:

- Appraisers who are not real estate licensees are prohibited from listing property in the MLS, conduct showings for prospective purchasers and viewing properties that they are considering purchasing for themselves. Appraisers who do hold a real estate license must participate or subscribe to the MLS under a broker in charge in order to list property in the MLS or conduct showings to purchase property for themselves or for prospective buyers.
- Appraisers and real estate licensees cannot schedule or conduct showings, or practice real estate or conduct appraisals in state(s) where they are not licensed. *(New Section 6-17)*

## **COMPLIANCE WITH RULES**

**SECTION 8: COMPLIANCE WITH RULES – AUTHORITY TO IMPOSE DISCIPLINE:** By becoming and remaining a Member Participant or Subscriber in this MLS, each Member 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 Member Participant or Subscriber can reasonably attend while taking into consideration cost, location, and duration
- d. Appropriate, reasonable fines 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

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

**SECTION 8.1: APPLICABILITY OF RULES TO USERS AND SUBSCRIBERS:** Member Participants and Subscribers must sign an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Individuals authorized to have access to information published by MLS are subject to these rules and regulations and MLS may discipline them for violations thereof. Further, failure of any user or Subscriber to abide by the rules or sanction imposed for violations thereof can subject the Member Participant to the same or other discipline. This provision does not eliminate the Member Participant's ultimate responsibility and accountability for all users or Subscribers affiliated with that Member Participant. *(Amended 3-05)*

## **ENFORCEMENT OF RULES OR DISPUTES**

**SECTION 9: CONSIDERATION OF ALLEGED VIOLATIONS:** MLS considers all complaints alleging a violation of the Rules and Regulations, including but not limited to complaints initiated by MLS staff or staff of Realtor® Associations. MLS reserves the right to request complaints be submitted in writing.

**SECTION 9.1: VIOLATIONS OF RULES AND REGULATIONS:** If the Staff determines an alleged offense is a violation of Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, Staff will process the complaint as described in this Section 9.

**SECTION 9.2: COMPLAINTS OF UNETHICAL CONDUCT:** MLS refers alleged violations involving complaints of unethical conduct or requests for arbitration to the Grievance

Committee of the CVAR® for appropriate action in accordance with the usual procedures under terms of the CVAR® Bylaws and the Code of Ethics and Arbitration Manual.

**SECTION 9.3: MLS VIOLATION REPORT:** Anyone may report the discovery of inaccurate or incomplete information in the MLS database. Staff will check the database to confirm the violation. If Staff cannot verify the complaint alleging a violation of the *MLS Rules and Regulations* by checking the database or tax records, then the complainant must submit the complaint in writing. The complainant may send (mail, fax or email) the MLS Violation Report to Staff.

If Staff is able to independently verify the violation reported by the complainant, then Staff will maintain the confidentiality of the complainant. However, if a complaint goes to a hearing, and the panel requires evidence from a complainant, the respondent is given the opportunity to confront the evidence and the complainant.

**SECTION 9.4: VIOLATION CATEGORIES:** If a violation occurs, it will fall into one of four categories:

**SECTION 9.4.1: CATEGORY I VIOLATIONS:** Considered to be “correctable violations” and do not carry a fine for the first violation.

- A. **Staff Action:** Staff will send "Listing Complaint Notification", by email to the attention of the respondent and the respondent's Member Participant.
- B. **Fine:** There is no fine for the first Category I violation.
- C. **Compliance:** The Member Participant must correct the violation within 48 hours (excluding weekends and holidays).
- D. **Non-Compliance:** If the respondent does not correct the violation within 48 hours (excluding weekends and holidays), and the respondent has not indicated plans to appeal the alleged violation, MLS will assess a Category I Non-Compliance Fine as described in Section 9.5: Compliance Fee Schedule.
- E. **Repeat Violations:** Repeat violations carry fines as outlined in Section 9.5: Compliance Fee Schedule.
- F. **Violations Include:** Any violation of the *MLS Rules and Regulations* not specifically addressed by Category II, III or IV.

**SECTION 9.4.2: CATEGORY II VIOLATIONS:** Considered serious violations. Many are not “correctable” and therefore incur an immediate fine.

- A. **Staff Action:** Staff will confirm whether a violation occurred. If there is no violation, the matter is closed. Staff will contact the person who filed the original complaint if that person requested notification of the alleged violation outcome. When the respondent has violated the “MLS Rules and Regulations,” Staff will send a "Listing Complaint and Fine Notification" to the attention of the respondent and the respondent's Member Participant.
- B. **Fine:** See Section 9.5: Compliance Fee Schedule.
- C. **Compliance:** The respondent must correct the violation (if the violation is correctable) within 48 hours (including weekends and holidays).
- D. **Non-Compliance:** If the respondent does not correct the violation (if correction is possible) within 48 hours (including weekends and holidays), and the Member Participant has not indicated plans to appeal the alleged violation, MLS will assess a Category II Non-Compliance Fine as described in Section 9.5: Compliance Fee Schedule.

- E. **Repeat Violations:** Repeat violations carry fines as outlined in Section 9.5: Compliance Fee Schedule.
- F. **Violations include (but are not limited to):**
  - 1. Failure to input a new listing required to be entered into the MLS System.
  - 2. Failure to indicate that a listing is a Limited Service Listing as described under Section 1.5.
  - 3. Failure to produce a signed listing agreement within 48 hours (including holidays and weekends) when requested by Staff indicating that the Seller refuses to permit the dissemination of the listing by the MLS service.
  - 4. Failure to report a listing's change of status as required by Section 1.14 and Section 3.5, or failure to report a listing's correct status. (*Amended 7-08*)
  - 5. Failure to include a Cooperating Brokerage when an offer is made to the Seller except where the Seller prohibits this in writing. The Listing Brokerage must provide a copy of the Seller's written instructions to the Cooperating Brokerage on request.
  - 6. Failure to include the Listing Brokerage when a counteroffer is made to the purchaser except if the purchaser prohibits this in writing. The Cooperating Brokerage must provide a copy of the purchaser's written instructions to the Listing Brokerage on request.
  - 7. Failure to comply with any of the Internet Data Exchange (IDX) or the Virtual Office Website (VOW) rules within five days of written notification from MLS.
  - 8. Entering a listing in the MLS without a valid, signed listing agreement.
  - 9. Failure to remove a listing upon termination of a listing agreement.
  - 10. Making an appointment for a showing or negotiating with the Seller for the purchase of listed property submitted to the Service without the permission of the Listing Brokerage, unless after reasonable effort, the Cooperating Brokerage (subagent or buyer agent) is unable to contact the Listing Brokerage or his or her representative.
  - 11. Failure to provide MLS with requested documentation within 48 hours.
  - 12. Entering a combination lockbox code or security system code in any field of the MLS System. (*Amended 10-11*)

**SECTION 9.4.3: CATEGORY III VIOLATIONS:** These violations pertain to possession and use of the Supra DisplayKEY, eKEY and Lockboxes, and failure to make an appointment with the Listing Brokerage prior to entering a listed property submitted to the Service.

- A. **Staff Action:** Staff will confirm whether a violation occurred. If there is no violation, the matter is closed. Staff will contact the person who filed the original complaint if that person requested notification of the alleged violation outcome. When the respondent has violated the *MLS Rules and Regulations*, MLS will send a "Listing Complaint and Fine Notification" to the attention of the respondent and the respondent's Member Participant.
- B. **Fine:** See Section 9.5: Compliance Fee Schedule.
- C. **Compliance:** If possible, the respondent must correct the violation within 48 hours (including weekends and holidays).
- D. **Non-Compliance:** If the respondent does not correct the violation within 48 hours (including weekends and holidays), and the respondent has not indicated plans to appeal the alleged violation, MLS will assess a Category III Non-Compliance Fine as described in Section 9.5: Compliance Fee Schedule.
- E. **Repeat Violations:** Repeat violations carry fines as outlined in Section 9.5: Compliance Fee Schedule.

**F. Violations include (but are not limited to):**

1. Any violation of Section 2, excluding Section 2 G 3 and 2 G 5. *(Amended 12-14)*
2. Failure to make an appointment with the Listing Brokerage prior to entering a listed property submitted to the Service. *(Amended 7-14)*

**SECTION 9.4.4: CATEGORY IV VIOLATIONS:** This violation pertains to unauthorized disclosure of login name and password to the MLS System.

- A. **Staff Action:** Staff will confirm whether a violation occurred. If there is no violation the matter is closed. Staff will contact the person who filed the original complaint if that person has requested notification of the alleged violation outcome. When the respondent has violated the "MLS Rules and Regulations," MLS will send a "MLS Listing Complaint and Fine Notification" to the attention of the respondent and the respondent's Member Participant.
- B. **Fine:** See Section 9.5: Compliance Fee Schedule.
- C. **Compliance:** Must change password within 48 hours (excluding weekends and holidays)
- D. **Non-Compliance:** If the respondent does not change the password immediately, a Category IV Non-Compliance Fine as described in the Compliance Fee Schedule will be assessed.
- E. **Repeat Violations:** Repeat violations will be fined as outlined in Section 9.5: Compliance Fee Schedule.
- F. **Violations include (but may not be limited to):**
  1. Unauthorized disclosure of login name and password to the MLS System. (Sec. 5.4)
  2. Any violation of Section 2 G 3 and 2 G 5
  3. Properties in Coming Soon-No Show status may not be shown. If the property is shown while in Coming Soon-No Show status, a \$1,000 fine is assessed to the listing agent.

**SECTION 9.5: COMPLIANCE FEE SCHEDULE** *(Amended 10-06)*

	Category I	Category II	Category III	Category IV
1 <sup>st</sup> Violation	None	\$100	\$500	\$1,000
Additional violations of the same offense by the same individual, whether Member Participant or Subscriber.	2 <sup>nd</sup> \$100	2 <sup>nd</sup> \$150	2 <sup>nd</sup> \$550	2 <sup>nd</sup> \$3,000
	3 <sup>rd</sup> \$150	3 <sup>rd</sup> \$200	3 <sup>rd</sup> \$600	3 <sup>rd</sup> Expelled from MLS for a period of one year. Reinstatement requires the approval of the Board of Directors.
	Fine will increase by \$50 for each additional occurrence to a maximum of \$500. Thereafter, fines shall be as determined by the Board of Directors.			
Non-Compliance	\$100	\$200	\$300	\$500 + Suspension until paid
Non-Payment	\$200	\$200	\$200	N/A

**SECTION 9.6: FAILURE TO PAY FINES:** Failure to pay a fine within 20 days (including weekends and holidays) incurs a Non-payment Fine as described in the Compliance Fee Schedule. Every 30 days thereafter (including weekends and holidays) another Non-payment Fine may be levied if the fines are not paid. Failure to pay accumulated fines of \$500 or more may result in the termination of MLS services. MLS will send the respondent a "Notification of Intent to Terminate MLS Services." If the respondent does not pay accumulated fines within 10 days (including weekends and holidays) of the "Notification of



Intent to Terminate MLS Services" MLS will terminate the respondent's services, and service will be reinstated when the fine(s) have been paid. (*Amended 2-03*)

**SECTION 9.7: HEARING REQUEST:** Any respondent, having reason to believe that the fine imposed on that respondent by the MLS is without merit, may file an MLS Compliance Hearing Request" form. The request for a hearing must:

- 1) Include copies of any relevant documents;
- 2) Include payment of assessed fine;
- 3) Include an appearance deposit equal to ½ the assessed fine which will be returned to the respondent as long as the respondent is not deemed "non-appearing"; and
- 4) Be sent to the MLS Compliance Administrator within twenty (20) days after the "MLS Complaint and Fine Notification."

If in the opinion of Staff, the respondent is able to show compliance with all Rules and Regulations and that the fine was erroneous, MLS will refund the assessed fine and the appearance deposit. If the Staff is not satisfied that the respondent was or is in compliance with all Rules and Regulations then the respondent may request a hearing before the Professional Standards Committee.

Within 15 days of receiving a MLS Compliance Hearing Request" form, Staff will send notice to the respondent requesting a hearing, offering two hearing dates and a list of the Professional Standards Committee members who may be selected to appear at the hearing.

The respondent then has 15 days (including weekends and holidays) to notify the Staff of the preferred date and of any objection to any Professional Standards Committee member. When the respondent has good cause the respondent may object to a Professional Standards Committee member who may be selected to sit on the Hearing Panel. The respondent must provide a written detailed explanation for the objection. Staff will review the objection and choose from the remaining Professional Standards Committee members to serve as Hearing Panel members when appropriate. If the respondent does not respond within the 15 days it will be considered a "non-appearance ". The fine will stand and the respondent forfeits the appearance deposit.

Staff will fill last minute emergency absences by scheduled panel members with the scheduled alternate.

**SECTION 9.8: MLS HEARINGS:** Staff schedules members of the Professional Standards Committee to serve on panels as primary and alternate participants on a rotating basis. Staff schedules hearings as required.

**SECTION 9.9: REQUESTS FOR DOCUMENTS:** Members of the panel scheduled for a hearing may request any document(s) they deem relevant and necessary to the determination of the hearing, from the parties to the hearing. The parties to the hearing must provide the documents requested by the hearing panel. MLS deems any failure to provide requested documents a "nonappearance." The hearing will be canceled, and the respondent shall have no further recourse. If the respondent fails to provide requested documents, the respondent must forfeit the appearance deposit.

**SECTION 9.10: CONTINUANCE OF HEARING:** If any party fails to appear at the hearing and has not requested a continuance, the hearing shall proceed as scheduled. If the

respondent fails to appear he/she forfeits the appearance deposit. One continuance may be granted if there are extenuating circumstances. The parties to the hearing must request the continuance in writing at least 48 hours prior to the hearing date to the Staff. When a continuance is granted, Staff will coordinate a new date for the hearing. If the respondent fails to appear before the Professional Standards Hearing Panel for the second scheduled hearing pursuant to the continuance, the respondent forever waives the right to contest that fine which is the subject of said hearing.

**SECTION 9.11: CANCELLATION OF HEARING REQUEST:** The respondent who requested the MLS Compliance Hearing Request" may cancel the request.

The request must be in writing and received (mail, fax or email) by noon of the business day preceding the hearing date in order to receive a refund of the appearance deposit in full. The Member Participant forever waives the right to contest the fine that was the subject of said hearing.

**SECTION 9.12: RECORDING THE HEARING:** Staff may tape-record the proceeding. Parties to the hearing may at their own expense have a court reporter present or tape record the proceeding. If transcribed, a transcript shall be sent to MLS.

**SECTION 9.13: HEARING PROCEDURES:** The Professional Standards Committee Hearing Panel is not bound by the rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance.

All hearings are conducted in accordance with the NATIONAL ASSOCIATION OF REALTORS® Handbook on Multiple Listing Policy and such Rules as promulgated hereunder.

**SECTION 9.14: AMENDING A COMPLAINT:** At any time during the hearing, the complaint may be amended or upon motion of the Professional Standards Committee Hearing Panel to add previously uncited violations of the *MLS Rules and Regulations* or additional respondents. In such event the hearing, with the concurrence of the respondent to the complaint, may proceed uninterrupted or be reconvened on a date certain, not less than fifteen (15) or more than thirty (30) days from adjournment. If the respondent knowingly waives his or her right to the adjournment, the record should reflect the fact that the respondent was aware of the right to an adjournment but chose to proceed with the hearing without interruption on the basis of the amended complaint. If the hearing is adjourned to be reconvened at a later time, the amended complaint shall be filed in writing, signed by the Chairperson of the Professional Standards Committee Hearing Panel, and shall be promptly served on the respondent as in all other cases provided herein.

**SECTION 9.15: HEARING APPEALS:** The respondent may appeal a Hearing decision for an alleged violation of the "MLS Rules and Regulations."

Within twenty (20) days of receipt of the hearing outcome, the respondent may file an appeal with the President for a hearing before the Executive Committee challenging the decision and/or recommendation for discipline. The respondent's bases for appeal are limited to (1) a misapplication or misinterpretation of the MLS Rules and Regulations, (2) procedural deficiency or any lack of procedural due process, and (3) the discipline recommended by the Hearing Panel. A summary of the hearing shall be presented to the Executive Committee by the Chairperson of the Hearing Panel, and the parties and their

counsel (if applicable) may be heard to correct the summary. No new evidence will be received (except such new evidence as may bear upon a claim of deprivation of due process), and the appeal will be decided on the summary.

The Executive Committee will hear appeals of determinations by the Professional Standards Committee Hearing Panel.

A \$100 deposit will be charged for an appeal of a hearing decision.

**SECTION 9.16: HEARING OUTCOME:** MLS shall return the respondent's appearance deposit in full if the respondent has appeared. The Professional Standards Committee Hearing Panel will submit their decision in writing, signed by all panel members to the Staff and the parties to the hearing, within 10 days. If a majority of the Professional Standards Committee Hearing Panel finds that the respondent violated a rule or regulation the fine stands. If a majority of the Professional Standards Committee Hearing Panel finds that the respondent's appeal prevails on its merits, the panel may revoke the fine that is the subject of the respondent's appeal. Staff will mail a fine refund to the respondent within three weeks of the notification of the fine revocation.

**SECTION 9.17: RECORDS:** Staff will retain records of all complaints and their disposition and tapes from MLS compliance hearings for seven years.

## **CONFIDENTIALITY OF MLS INFORMATION**

**SECTION 10: CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the MLS to the Member Participants is confidential and exclusively for the use of Member Participants and for each individual, employed by or affiliated as an independent contractor (including licensed and certified appraisers and appraiser trainees) with the Member Participant, who has access to and who utilizes the Service.

### **SECTION 10.1: MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:**

MLS publishes and disseminates information verbatim, without change by the Service, as submitted to the Service by the Member Participant. The Service does not verify the information provided and disclaims any responsibility for its accuracy. Each Member Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Member Participant provides.

### **SECTION 10.2: ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:**

REALTOR® associations where CarolinaMLS is the primary MLS are the Gaston Association of REALTORS®, Central Carolina Association of REALTORS®, Union County Association of REALTORS®, Lincoln County Board of REALTORS®, and CRRA. Members of these REALTOR® Associations who are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, counseling, or building, developing or subdividing real estate but who do not participate in the MLS, are nonetheless entitled to receive by purchase or lease all information other than current listing information that is generated wholly or in part by the MLS, including "comparable" information, "closed" information, and statistical reports. This information is provided for the exclusive use of REALTOR® Association members and individuals affiliated with REALTOR® Association members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to unauthorized individual,

office, or firm, except as otherwise provided in these rules and regulations. (Amended 08-04)

## **OWNERSHIP OF MLS COMPILATION AND COPYRIGHTS**

**SECTION 11: OWNERSHIP OF MLS COMPILATION AND COPYRIGHTS:** By the act of submitting property listing content to the MLS, the Member Participant represents that he/she has been authorized to license and also, thereby, does license authority for MLS to include the property listing content in the 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 listing property.

"MLS Compilation" shall mean any format in which the Service collects property-listing data including, but not limited to, computer database, card file, or any other format. (Amended 1-07)

***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 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 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. §512.

**SECTION 11.1: OWNERSHIP:** All right, title and interest in each copy of every MLS Compilation created and copyrighted, and the copyrights therein shall, at all times, remain vested in the copyright holder.

**SECTION 11.2: SUBSCRIPTION LIMITATIONS:** Each Member Participant is entitled to a number of subscriptions to the Service sufficient to provide the Member Participant and each licensed or certified person affiliated as a licensee with such Member Participant with one subscription. The Member Participant shall pay, for each such subscription, the Subscription Fee described in Section 7 and in the Membership Policies and Procedures.\*\*

Member Participants and Subscribers acquire by such subscription only the right to use the MLS Compilation in accordance with these rules.

*\*\*This section does not require the Member Participant to pay for a subscription to the MLS for any licensee (or licensed or certified appraiser) affiliated with the Member 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 submitted to the MLS and who does not, at any time, have access to or use of the MLS information.*

## **USE OF COPYRIGHTED MLS COMPILATIONS**

**SECTION 12: DISTRIBUTION:** At all times, Member Participants must maintain control over and responsibility for:

- A. each copy of any MLS Compilation (including the Comparables Book and any digital form of the MLS Compilation) provided to them by MLS, and
- B. the information accessed from the online database as allowed by the MLS

and shall not distribute any such copies or information to persons other than Subscribers who are affiliated with such Member 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 the MLS is strictly limited to the activities authorized under a Member Participant's licensure(s) or certification, and MLS prohibits unauthorized uses. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed or published by the MLS where access to such information is prohibited by law.

**SECTION 12.1: DISPLAY:** MLS permits Member Participants, and those persons affiliated as licensees with such Member Participants, 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:** Member Participants or their affiliated licensees shall not reproduce any MLS Compilation, any information originating from the MLS database or any portion thereof except in the following listed circumstances:

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

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

Provided, however, that nothing precludes any Member 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 Member 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 Member Participant and those licensees affiliated with the Member 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 prevents 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. While any MLS content in data feeds available to Member Participants for real estate brokerage purposes is also available to Member Participants for valuation purposes, including automated valuations, such use for valuations is provided via a separate data feed. MLS provides a separate data feed and requires execution of the MLS Non-Participant License Agreement to satisfy this requirement. MLS requires Member Participants who will use such data feeds for valuation purposes, including automated valuations, to pay the reasonably estimated costs incurred by 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 the rules and regulations.

**SECTION 12.3: PROPRIETARY DATA AND CONFIDENTIALITY:** The property data provided to MLS is proprietary and confidential. All such data is copyrighted by MLS and MLS does not relinquish to any party any of the proprietary or copyright privileges vested in it by law or equity. All such information shall be treated as proprietary and confidential and shall not be disclosed to any third party whatsoever except by MLS or as otherwise approved by MLS. Such listing data may be sold, transferred, licensed, conveyed, accessed, leased or shared by a MLS approved third party. *(New Section Approved 12-96)*

**SECTION 12.4: DISPOSAL:** Upon the end of its useful life, any MLS Compilations or information accessed from the online database shall be archived or disposed of in a fashion that would not allow third parties to gain access to this information. *(New Section Approved 11-98)*

**SECTION 12.5: OBJECTIONABLE COMPANY AND WEBSITE NAMES:** Member Participants and Subscribers must not indicate or imply in any medium that they operate a multiple listing service. MLS reserves the right to object to any company name or website name proposed by a current or potential Member Participant or Subscriber, which name in CarolinaMLS' sole discretion is confusingly similar to any name used in commerce by CarolinaMLS and that CarolinaMLS believes could leave the public confused. Names or phrases that CarolinaMLS might find objectionable could include "MLS," "Charlotte Regional," or any combination when used together or in such close proximity to each other anywhere in their website address (URL) or their website name that it could cause confusion. The use of the words "Multiple" (or "Multi") "Listing" (or "List") or "Service" (or "System") together or in any combination in a website address (URL) or website name is also prohibited.

MLS staff will record the rejection of a company or website name proposed by a current or future Member Participant or Subscriber at the time of membership application or when the member first proposes the use of such company or website name. If a potential new Member Participant or Subscriber refuses to change his/her company or website name to something less objectionable, the MLS Member Services Department will advise the applicant that he/she will not be allowed to attend orientation and therefore, he or she will not receive access to Supra Keys or MLS until the name is reviewed by the Board of Directors at the next regularly scheduled meeting.

When a current Member Participant or Subscriber chooses a new company or website name found to be objectionable, the Member Participant or Subscriber (as well as the Subscriber's Member Participant) will be notified that if use of the objectionable name does not cease within five business days, access to MLS will be terminated for the Member Participant or Subscriber. Additionally, the IDX data feed will be terminated for the Member Participant or Subscriber's Member Participant. [Policy approved February 2003] *(Amended 10-06)*

**SECTION 12.6: USE OF THE TERM MLS:** Member Participants and Subscribers shall not use the term "MLS" "multiple listing service" or any derivatives to represent or imply that the public will have access to the MLS on their own websites or on any advertising in any media. The only acceptable use of the term MLS is for a Member Participant or Subscriber to indicate they are a member of the MLS or to describe the services they provide.

**SECTION 12.7: CONFIDENTIAL DATA FIELDS:** The service has classified as confidential the following data fields. A Member Participant or Subscriber shall not disclose confidential

data fields to any consumer, whether orally, on a VOW, IDX website, or via any other means, unless the Member Participant or Subscriber is the Listing Brokerage.

COMPANY REMARKS  
EXPIRATION DATE (unless the listing is Expired)

SELLING OFFICE (unless the listing is Closed)  
SELLING AGENT(unless the listing is Closed)

## **USE OF MLS INFORMATION**

**SECTION 13: LIMITATIONS ON USE OF MLS INFORMATION:** Use of information from the MLS compilation of current listing information, from MLS' statistical report, or from any sold or comparable report of MLS for public mass-media advertising by a Member 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 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 Multiple Listing Services for the period (date) through (date) (and the area covered)."* (Amended 3-06)

## **CHANGES IN RULES AND REGULATIONS**

**SECTION 14: CHANGES IN RULES AND REGULATIONS:** Changes in Rules and Regulations of the MLS require a majority vote of the members of the MLS Board of Directors present and voting. *(Amended 10-06)*

## **ORIENTATION**

**SECTION 15: ORIENTATION:** Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Member Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight 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.

Member Participants and Subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four classroom hours in any 12-month period when deemed necessary by the MLS to familiarize Member Participants and Subscribers with MLS System changes or enhancements and/or changes to MLS rules or policies. Member Participants and Subscribers must be given the opportunity to complete any mandated additional training remotely. *(Amended 04-10)*

## **INTERNET DATA EXCHANGE**

### **SECTION 16: INTERNET DATA EXCHANGE**

#### **SECTION 16.1: DEFINITIONS:**

(a) "IDX," or Internet Data Exchange, affords IDX Participants, as defined below, the ability to authorize limited electronic display of their listings by other IDX Participants.



Under an IDX policy, brokers exchange consent to display one another's listings. IDX refers strictly to brokers displaying other brokers' listings with express permission.

(b) "IDX Participant" is an authorized Participant of MLS that permits the limited electronic display of its listings by other IDX Participants in MLS subject to these Rules. An IDX Participant is identified as the authorized firm, i.e., the entity, regardless of whether the Participant of MLS is identified as a firm or an individual. The term "Participant" refers to persons and firms satisfying the definition of that term in the policies of MLS.

(c) "IDX Database" is the current aggregate compilation of all active and under contract listings of all IDX Participants, except those listings where the Seller or listing broker has opted out of Internet publication by so indicating on the listing contract or otherwise in the MLS System. Listings, including property addresses, can be included in IDX displays except where a 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 websites or VOWs). Display of listings is subject to any applicable state law. IDX Participants are permitted to display all under contract listings (both "show" and "no show") and may describe the status of under contract listings in any way that does not misrepresent the status. MLS may demand a copy of the listing agreement or the Seller's written instruction to withhold the listing from IDX, which the IDX Participant must provide within three business days. The IDX Database also includes closed content as defined in Section 18.2.

(d) "Seller" is the person or entity described as such in an Exclusive Right to Sell listing agreement or an Exclusive Agency listing agreement with respect to the property in question.

(e) "Subscribers" with regard to a given IDX Participant, are those non-principal brokers or licensees affiliated with the IDX Participant's office.

(f) "IDX Subscriber" is an authorized Subscriber of MLS that displays IDX data on its website.

**SECTION 16.2: PARTICIPATION PRESUMED:** MLS will presume that each Participant in it is an IDX Participant, unless the Participant informs the MLS in writing or via electronic means provided by MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame or display the aggregated MLS data of other Participants. Even where Participants have given blanket authority for other Participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display.

**SECTION 16.3: PUBLICATION PERMITTED:** An IDX Participant may republish all or any portion of the IDX Database on the Internet, in accordance with the provisions of these Rules and in keeping with any policies that MLS may adopt from time to time. Unless expressly contravened by the provisions of these Rules, all other MLS rules and regulations remain in full force and effect. Use of the IDX Database is subject to these Rules, to the Code of Ethics of the National Association of REALTORS®, to the extent it regulates the display of other brokers' listings on websites and to applicable state laws of North Carolina and other states to the extent the same may apply.

**SECTION 16.4: ELIGIBILITY TO DISPLAY IDX DATABASE:** Participation in IDX is available to all MLS Member Participants (as Member Participant is defined in the MLS MLS) who consent to display of their listings by other MLS Member Participants. To display listings of other IDX Participants, the IDX Participant must be engaged in real estate brokerage and must be at all times compliant with applicable rules and regulations of any applicable regulatory body, including, but not limited to, the rules and regulations of the North Carolina Real Estate Commission for brokers licensed in North Carolina. For the purposes of these Rules, the Listing Brokerage (defined as the firm who contracts as the agent of a property owner) includes the Participant (firm) who is a party to the listing agreement with the Seller, as well as the Participant's Subscribers.

**SECTION 16.5: REQUIRED AND PROHIBITED FIELDS AND RECORDS:** An Internet republication of another IDX Participant's listing must contain those fields defined, from time to time, as required for IDX displays, and may not contain fields of data identified as prohibited for IDX displays. The required fields are listing office name, listing number and status. The prohibited fields are all those fields not included in the IDX Database. The fields listed in Section 12.7 are provided but may not be displayed. MLS may amend the lists of required and prohibited fields.

**SECTION 16.6: IDX PARTICIPANT NEED NOT DISPLAY ALL LISTINGS:** An IDX Participant may select the listings of other IDX Participants it chooses to display on its IDX website only based on objective criteria including, but not limited to, geography or location ("uptown," "downtown," etc.), list price or type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant. If an IDX Participant displays less than all the records in the IDX Database, the IDX Participant's website must include a disclosure to consumers stating, "Some IDX listings have been excluded from this website."

**SECTION 16.7: SELLER INSTRUCTIONS HONORED:** Any IDX display controlled by an IDX Participant or IDX 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 16.8, an IDX 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 16.8: FALSE DATA OR INFORMATION:** IDX 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. IDX 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, IDX Participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

## **SECTION 16.9 REMOVED (2-12)**

### **SECTION 16.10: DISPLAYS:**

- (a) A display of another IDX Participant's listing(s) may not include in the body of the listing any contact information or branding of the IDX Participant who owns the website, any of its Subscribers, or any third party. The body of the listing is defined as a rectangular space the borders of which are delimited by the utmost extent in each direction of the listing text and photo data.
- (b) Every display of another Participant's listing must bear the listing office name, the listing number and the status immediately adjacent to the property information. Each of these required items must be reasonably visible and legible to a site visitor, for example, no tiny text or gray text on gray background. Text must appear in a type size equal to or greater than the median size used for listing data on the page. 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.
- (c) In the event that an IDX website displays a map showing the locations of listings matching a consumer's search with icons or "push-pins," and a site visitor may display a "pop-up" or "balloon" over the icon or push-pin by clicking or holding the mouse over it, the elements required in the first sentence need not be displayed in the pop-up or balloon, provided one of the following is true: (i) the consumer can click on the pop-up or balloon and view a page, including the listing information and the required elements; or (ii) there is a display elsewhere on the page on which the map appears that includes the listing information and the required elements for all such listings on the map.
- (d) A thumbnail display of another IDX Participant's listing is one that includes no more than two horizontal lines of text data about the listed property, a photo of the listed property and "buttons" providing links for other information. A thumbnail display must include a link to a detailed display.
- (e) No display of another Participant's listing may include the listings or property addresses of sellers who have chosen to withhold their listings or addresses from display on other brokers' IDX sites. Notwithstanding this prohibition, listing brokers may display on their own sites the listings and property addresses of consenting sellers.
- (f) IDX Participants are advised to review applicable rules and regulations of any applicable regulatory body, including but not limited to, the North Carolina Real Estate Commission articles and rules on advertising to ensure compliance with state law for brokers licensed in North Carolina.

**SECTION 16.11: MODIFICATION OF LISTINGS:** IDX Participants shall not modify or manipulate information relating to other Participants' listings. IDX Participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from 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.

**SECTION 16.12: DISCLOSURE/DISCLAIMER REQUIRED:** Any webpage display, including another Participant's listing, must display the following disclosure/disclaimer: "The data relating to real estate on this website derive in part from the Internet Data Exchange program. Brokers make an effort to deliver accurate information, but buyers should independently verify any information on which they will rely in a transaction. All properties are subject to prior sale, change or withdrawal. Neither [name of website owner] nor any listing broker shall be responsible for any typographical errors, misinformation, or misprints, and they shall be held totally harmless from any damages arising from reliance upon this data. This data is provided exclusively for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties they may be interested in purchasing. © 201\_ Carolina Multiple Listing Services, Inc./MLS of Catawba Valley Inc." 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 16.13: ADDITIONAL FUNCTIONS AND CONTENT:** An IDX Participant may, subject to the requirements of these Rules, display generic links or "buttons" (such as "Map" or "Tax Info") on listings of other IDX Participants. If the IDX Participant displays data from other sources, such as property tax records, sales histories from public records, etc., such data must be segregated on the page from the other IDX Participants' listings and the source of such data clearly identified. 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 16.13.1: PRICE CHANGE INFORMATION:** An IDX website may indicate that a price has been reduced or increased and display the amount of the price change including the price change history.

**SECTION 16.14: PARTICIPANT CONTROL AND BRANDING:**

(a) Any IDX display must be under the actual and apparent control of a single Participant who is an IDX Participant. Actual control means that the IDX Participant has either built the website for its own use with internal resources, or obtained technology for the website under an agreement with a third party that provides the IDX Participant final control over the operations of the website. Additionally, "actual control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. Apparent control means that a reasonable consumer viewing the website would conclude that it is under the control of the IDX Participant. The following are currently conclusively deemed to be evidence of apparent control: that the IDX Participant's branding is equal to or more prominent than that of any other entity, and that the domain name and branding on the website distinguish the IDX Participant from non-participating firms, e.g., from other franchisees of the same franchise, if applicable.

(b) The IDX Participant shall include brokerage branding on any page of its website displaying any portion of the IDX Database, or where visitors can initiate a search that displays any portion of the IDX Database, including pages framed by an IDX Subscriber's website. The IDX Participant's branding shall appear at the top of the page and shall consist, at a minimum, clear identification of the brokerage firm's full name under which they operate with all text displayed in such a manner as to clearly communicate that the brokerage is the source of the data. The display will be in a readily visible color and typeface and as clearly legible as the listing data on the same page. Brokerage firm name here means the full name of the firm as registered with MLS (e.g., "Century 21" or "RE/MAX" is not sufficient; it must include the entire firm name). The "Realtor® Code of Ethics" might require further information, such as state of licensure.

**SECTION 16.15: LIMITED USE STATEMENT; END-USER LICENSING AGREEMENT:**

Before displaying any of the IDX Database, the IDX Participant's website must alert the consumer that use of the IDX data is subject to an end user license agreement in the form prescribed by MLS, if any and as amended from time to time. For example, this requirement would be deemed satisfied if the "search" button or other button the consumer clicks to activate a search is immediately adjacent to a link that legibly states, "Use of this site is subject to a license agreement to which you agree by performing a search" that links to the entire end-user license agreement MLS has adopted.

**SECTION 16.16: CO-MINGLING:** Except as permitted by these Rules, the IDX Participant's website may not co-mingle the IDX Database with listing data content from other sources, and any other listing content must be accessed via a separate search on other pages of the Participant's website. "Co-mingling" is the ability for a website to execute a single search that searches any portion of the IDX Database at the same time it searches listing data from any other source or the display on a single webpage of any portion of the IDX Database and listing data from any other source. The foregoing notwithstanding, the IDX Participant's website may co-mingle the IDX Database with listings from IDX feeds of other multiple listing services, provided all such displays are consistent with the IDX rules, and the IDX Participant holds participatory rights in those MLSs.

**SECTION 16.17: FREQUENCY OF UPDATES:** An IDX Participant must refresh all MLS downloads and IDX displays automatically fed by those downloads no less frequently than every 12 hours. The IDX Participant's IDX display must indicate the date of the last update of 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 16.18: IDX SUBSCRIBER SITE:** All Subscribers' websites displaying IDX listings are subject to the IDX Participant's control. IDX Subscribers' websites may display IDX listings only subject to an agreement prescribed by MLS among the IDX Participant, the IDX Subscriber, the IDX website vendor, and MLS, and all such displays are subject to these Rules including, without limitation, Rules applicable to Participant control and branding. IDX Participants may operate multiple websites displaying the IDX Database, each of which meets the requirements of these Rules applicable to Participant control and branding, but which gives the appearance of being websites jointly branded by the IDX Participant and one or more of its IDX Subscribers.

**SECTION 16.19: IDX DATA FOR WEBSITES ONLY:** IDX Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require IDX Participants to prevent indexing of IDX listings by recognized search engines.

**SECTION 16.20: REMOVED (12-10)**

**SECTION 16.21: THIRD PARTY CONTRACTORS:** Any IDX Participant using a third party to develop or design its website must have a written agreement with such third party and MLS in such form as prescribed by MLS.

**SECTION 16.22: INTENT TO ESTABLISH IDX SITE:** An IDX Participant must notify MLS of its intention to display IDX information at or before the time the IDX information becomes available to the public. An IDX Participant shall give MLS direct access for review. MLS may review the display, if resources permit, prior to it being made available to the public. Each IDX Participant must make its display directly accessible to MLS for purposes of monitoring/ensuring compliance with applicable rules and policies. The IDX Participant must inform MLS of the site's domain name by providing each URL of each search page on which this data appears on the Internet, and access to any mobile applications, as well as any subsequent changes to the URL or mobile application access.

**SECTION 16.23: NO DISCLOSURE:** An IDX site or Participant or user operating an IDX site or displaying IDX information as otherwise permitted shall not use any portion of the IDX Database or distribute, provide, or make any portion of the MLS database to any third party for any purpose other than as expressly provided for in the IDX policy and these Rules.

**SECTION 16.24: COMPLIANCE WITH RULES:** An IDX Participant must make changes to an Internet site necessary to cure a violation of these Rules within five business days of written notice from MLS of the violation. If the violation continues five business days after the written notice, MLS may terminate the data feed, immediately and without further notice. If the violation continues after 10 business days after the written notice MLS must terminate the IDX Participant's data feed.

**SECTION 16.25: COSTS PAID BY PARTICIPANT:** Costs incurred by MLS in providing the IDX Database and other IDX services to a Participant, its Subscribers, or its vendor, may be assessed by MLS to the IDX Participant. MLS establishes the fees it charges, if any, for IDX services at its sole discretion.

**VIRTUAL OFFICE WEBSITE**

(FIRST ADOPTED JANUARY 29, 2009)

**SECTION 17: 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 closed 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 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.





- (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 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.

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

**SECTION 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 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 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 17.16:** A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 250 current listings and not more than 250 closed listings in response to any inquiry. *(Amended 06-09)*

**SECTION 17.17:** A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

**SECTION 17.18:** 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 17.19:** 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 17.20:** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

## **INTERNET DISPLAY OF MLS CLOSED DATA**

### **SECTION 18: INTERNET DISPLAY OF MLS CLOSED DATA (FIRST ADOPTED MAY 5, 2009)**

**SECTION 18.1: SALES HISTORY DATA TOOL:** MLS's Sales History Data Tool offers consumers the ability to search for limited information on sales in any neighborhood in MLS Service Area. The user must pick a county, a ZIP code and a neighborhood, which will produce a list of sales by year along with a map of those sales MLS has created a frameable version of the tool available for any IDX Participant or IDX Subscriber.

**CLOSED CONTENT DELIVERY:** In addition to the active-data elements (the "active content") of MLS's database that are currently provided to broker-members through the IDX Database, IDX recipients receive certain closed-data elements ("closed content"). The closed content is combined with and incorporated into MLS existing standard IDX download, which is only available to those broker-members who have signed a MLS Participant License Agreement for IDX/VOW/Licensee Internal Use" and been approved by MLS.

**SECTION 18.2: CLOSED CONTENT DISPLAY:** IDX recipients may display closed content (i.e., those listings that have closed and have been reported as "Closed" in MLS' online database, reflected as "Closed" status), including those designated as "Allow Internet Listing Display: No". In addition, listings designated "Allow Internet Address Display: No" will have their addresses displayed after reported as "Closed."

Temporarily off market, expired or withdrawn content shall not be displayed.

In lieu of the requirements of Section 16.5, displays of closed content must include the Closed Price and Closed Date immediately adjacent to the property information.

Additionally, the display must include the listing office name and selling office name, or the following disclaimer must appear on any webpage where the closed content is displayed: "Properties reported may be listed or sold by various participants in the MLS." Each of these required items must be reasonably visible and legible to a site visitor, e.g., no tiny text or gray text on gray background. Text must appear in a type size equal to or greater than the median size used for listing data on the page.

Displays of closed content shall not contain fields of data not included in the IDX Database MLS provides to the IDX Participant and the fields listed in Section 12.7. MLS may amend the lists of required and prohibited fields.

Only the primary photo for closed content shall be displayed.

MLS will provide IDX recipients with closed content for the previous three years (year to date) in the IDX download. No IDX recipient shall display any closed content other than the previous three years (year to date) (although IDX recipients may display less).

**SECTION 18.3: OTHER MLS RULES APPLY:** All other MLS Rules apply to the display of closed content by IDX Participants and IDX Subscribers (see rules Section 16) unless contravened by the rules in this Section 18.