

MULTIPLE LISTING SERVICE RULES AND REGULATIONS

Coastal Bend Association of REALTORS®

INTRODUCTION

The Multiple Listing Service is a part and parcel of the Coastal Bend Association of REALTORS®. It is a regular service available to all Principal REALTOR® Members of the organization. The Multiple Listing Service (hereinafter referred to as MLS) functions by authority of ARTICLE XVIII of the Bylaws of the Coastal Bend Association of REALTORS®.

The Board maintains for the use and benefit of its REALTOR® Members a multiple listing service under which property listed for sale or exchange as hereinafter prescribed becomes available in the office of each member of the MLS.

LISTING PROCEDURES

Section 1 – Listing Procedures

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the Coastal Bend Association of REALTORS® and are taken by participants on (indicated form[s] accepted by the Service-See Notes 1 and 2) shall be delivered to the multiple listing service within 7 days after all necessary signatures of seller(s) have been obtained: (amended 11/01 and amended local board LB 8/06)

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange
- d. commercial (building or land) or apartments – multi-family (Amended 8/06 LB)

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

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

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to other participants of the multiple listing service acting as subagents, buyer agents, or both. (Amended 11/96)

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

The different types of listing agreements include:

exclusive right-to-sell	open
exclusive agency	net

The service may not accept **net listings** because (1) they are deemed unethical and, in most state, illegal, and (2) by nature they do not permit compensation on a blanket unilateral basis. **Open listings** are not accepted, except where required by law, because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. (Amended 4/92)

The **exclusive right-to-sell** listing is the conventional form of listing submitted to the multiple listing service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers. (Amended 4/92)

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right-to-sell listing with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. (Amended 4/92)

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

NOTE 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. (Adopted 11/92)

Section 1.01, Clear Cooperation

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

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

Section 1.1 - Types of Properties

Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the participant's option provided, however, that any listing submitted is entered into within the scope of the participant's licensure as a real estate broker: (Amended 11/91)

- Residential
- Multi family
- Commercial
- Land

Section 1.1.1 - Listings Subject to Rules and Regulations of the Service

Any listing taken on a contract to be filed with the multiple listing service is subject to the rules and regulations of the service upon signature of the seller(s).

Section 1.2 - Incomplete Listing Forms

All properly signed listings must contain the basic necessary information of legal description, location of the property, gross price, name of the parties, description of the property, size of lot or acreage, expiration date of listing, and sufficient description of the improvements, compensation for Broker, completing all data applicable on the form approved by the MLS. Listings must be signed by the Owner(s) and Listing Broker must have written permission to make any changes. Incomplete Listing Forms are permissible and must be completed within 30 days from date of entry. (Amended 8/06 Local Board)

Section 1.3 - Changing Principal Brokers

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (office exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

NOTE: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation M

Section 1.4 - Change of Status of Listing

Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the service within seventy-two (72) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.

Section 1.5 - Withdrawal of Listing Prior to Expiration

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

Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his or her exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. (Adopted 11/96)

Section 1.6 - Contingencies Applicable to Listings

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

Section 1.7 - Listing Price Specified

The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction. (Amended 11/92)

Section 1.8 - Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the multiple listing service.

Section 1.9 - No Control of Commission Rates of Fees Charged to Participants

The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing services shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and non-participants.

Section 1.10 - Expiration of Listings

Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. (Amended 11/01)
If a notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extension and renewals of listings must be signed by the seller(s) and filed with the service. (Amended 11/01)

Section 1.11 - Termination Date on Listings

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

Section 1.12 - Jurisdiction

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

NOTE: Associations must choose whether the service will accept listings from beyond its service area into the MLS compilation. (Amended 11/17)

Section 1.13 - Listings of Suspended Participants

When a participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS

rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective.

If a participant has been suspended from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, and association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listing from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise his clients.

Section 1.14 - Listings of Expelled Participants

When a participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations excepts failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled participant shall, at the participant's option, be retained in the services until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective.

If a participant has been expelled from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, and association MLS is not obligated to provide MLS services, including continued inclusion of the expelled participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled participant's listings from the MLS, the expelled participation should be advised, in writing of the intended removal so that the expelled participant may advise his clients.

Section 1.15 - Listings of Resigned Participants

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

SELLING PROCEDURES

Section 2 - Showings and Negotiation

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

- a. the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- b. after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (Amended 4/92)

Section 2.1 - Presentation of Offers

The listing broker must make arrangements to present the offer as soon as possible or give the cooperating broker a satisfactory reason for not doing so. (Amended 4/92)

Section 2.2 - Submission of Written Offers and Counter-offers

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

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated. (Amended 11/05)

Section 2.3 - Right of Cooperating Broker in Presentation of Offer

The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations. (Amended 4/92)

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

Section 2.4 - Right of Listing Broker in Presentation of Counter-offer

The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93)

Section 2.5 - Reporting Sales to the Service

Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing broker within twenty-four (24) hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within twenty-four (24) hours after occurrence and the listing broker shall report them to the MLS within twenty-four (24) hours after receiving notice from the cooperating broker. (Amended 11/08)

NOTE 1: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise, to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If

deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants. *(Amended 11/01)*

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

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

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

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices.

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

Section 2.6 - Reporting Resolutions of Contingencies

The listing broker shall report to the multiple listing service within seventy-two (72) hours that a contingency on file with the multiple listing services has been fulfilled or renewed, or the agreement cancelled.

Section 2.7 - Advertising of Listings Filed with the Service

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

Section 2.8 - Reporting Cancellation of Pending Sale

The listing broker shall report to the multiple listing service the cancellation of any pending sale, and the listing shall be reinstated.

REFUSAL TO SELL

Section 3 - Refusal to Sell

If the seller of any listed property filed with the multiple listing service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the service and to all participants. **R**

PROHIBITIONS

Section 4 - Information for Participants Only

Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.

Section 4.1 - For Sale Signs

Only the for sale sign of the listing broker may be placed on a property. (Amended 11/89)

Section 4.2 - Sold Signs

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. (Amended 4/96)

Section 4.3 - Solicitation of Listing Filed with the Service

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

Section 4.4 - Use of the Terms MLS and Multiple Listing Service

No MLS participant, subscriber or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. (Adopted 11/07)

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

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

This section is also intended to encourage brokers to participate in the service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the

protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

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

No MLS agent shall solicit a seller for a listing PRIOR to the expiration of the listing. A fine of \$100 will be imposed by the MLS committee on each occurrence. *(Amended 8/2006 local board)*

DIVISION OF COMMISSIONS

Section 5 - Compensation Specified on Each Listing

The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have know) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. *(Amended 11/98)*

In filing a property with the multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore, specify on each listing filed with the service, the compensation being offered to the other MLS participant. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. * *(Amended 11/96)*

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

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount *(Amended 05/10)*

While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define "seller

concessions” for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of “seller concessions” is suggested but not required for adoption:

Points paid by seller on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. *(Adopted 5/12)*

The listing broker retains the right to determine the amount of compensation offered to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law) which may be the same or different. *(Amended 11/96)*

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sale price or as a flat dollar amount. *(Amended 05/10)*

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

NOTE 2: The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. *(Amended 4/92)*

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

NOTE 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval; and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. *(Amended 5/10)*

NOTE 5: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. *(Adopted 11/05)*

NOTE 6: Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers. *(Amended 5/09)* **M**

Section 5.0.1

Participants may, but are not required to, disclose potential short sales to other participants and subscribers. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.

Section 5.1 - Participant as Principal

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

Section 5.2 - Participant as Purchaser

If a participant or any licensee (including licensed and certified appraisers) affiliated with a participant wishes to acquire an interest in property listed with another participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker. *(Adopted 2/92)*

Section 5.3 - Dual or Variable Rate Commission Arrangements

The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternative, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. *(Amended 5/01)*

SERVICE CHARGES

Section 6 – Service Fees and Charges

The following service charges for operation of the multiple listing service are in effect to defray the costs of the service and are subject to change from time to time in the manner prescribed:
Initial Participation Fee: An applicant for participation in the service shall pay an application fee as established by the board of directors with such fee to accompany the application.

Recurring Participation Fee: The annual participation fee of each participant shall be an amount as established by the board of directors plus tax times each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participation. Payment of such fees shall be made quarterly, within thirty days of receipt of invoice. Fee shall be prorated on a quarterly basis.

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

NOTE : A multiple listing service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by increased frequency of such payments.

NOTE 2: Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, charge recurring fees. (*Amended 11/17*) **R**

*Note: Mandatory waiver provision is effective no later than July 1, 2018.

COMPLIANCE WITH RULES

Section 7 - Mandatory Compliance with Rules / Authority to Impose Discipline

By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year

- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Revised 11/14)* **M**

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

Section 7.1 - Compliance with Rules

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

- a. for failure to pay any service charge or fee within on (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full.
- b. for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply

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

Section 7.2 - Applicability of Rules to Users and/or Subscribers

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the participant to the same or other discipline. This provision does not eliminate the participant's ultimate responsibility and accountability for all users or subscribers affiliated with the participant. *(Adopted 4/92)*

NOTE : Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or subscribers affiliated with MLS members or participants. *(Amended 11/07)*

MEETINGS

Section 8 - Meetings of MLS Committee

The multiple listing service committee shall meet for the transaction of its business at a time and place to be determined by the committee or at the call of the chairperson.

Section 8.1 – Terminology

Where the term "Participant" is used in these Rules and Regulations, it shall be construed to mean the Principal Broker participating in the Multiple Listing Service. Where the term "Subscribers" (or users) of the MLS included non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

Section 8.2 - Waiver of Membership in MLS

(Deleted by amendment 8/06 local board)

Section 8.3 - Election of MLS Committee

At least one week prior to the Annual Board Meeting, members of the Multiple Listing will meet to elect a new Multiple Listing Chairman and Committee. The date, place and hour is set by the Multiple Listing Committee. The Committee shall consist of three (3) REALTOR® MEMBERS. The MLS Chairman shall be appointed by the President of the Association. All members of the Committee shall be participants in MLS except at the option of the Board of Directors. REALTORS® affiliated with Participants may be appointed to serve in such numbers as determined by the Board. Committee Members shall be elected to serve for terms of three (3) years on staggered terms. Each year as many members shall be elected as necessary to fill vacancies. Each off-going member may have the privilege of nomination one name for the ballot after which nominations will be accepted from the floor. This election is subject to confirmation of the Board of Directors.

Section 8.4 - Vacancies

Vacancies among the committee shall be filled by appointment of a REALTOR® member by the Board of Directors.

Section 8.5 – Attendance

Any Committee Member who fails to attend three (3) consecutive regular or special meetings of the Committee, without excuse acceptable to the Chairman of the Committee, shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

Section 8.6 - Voting Rights

Each REALTOR® with access to Multiple Listing Service (Broker and Salespersons) in good standing shall have one vote and may serve on the MLS Committee.

Section 8.7 - Conduct of the Meetings

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

Section 8.8 - Quorum

A quorum of for the transaction of business shall consist of a minimum of two (2) representatives from different real estate brokerages and a minimum of five (5) eligible voting members for items voted upon in General Membership Meetings. (Amended 8/06 Local Board)

ENFORCEMENT OF RULES OR DISPUTES

Section 9 - Consideration of Alleged Violations

The committee shall give consideration to all written complaint having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be

subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors). *(Amended 5/18)* **M**

Section 9.1 - Violations of Rules and Regulations

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the multiple listing service committee, and if a violation is determined, the committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association of REALTORS® within twenty (20) days following receipt of the committee's decision. *(Amended 11/96)*

If, rather than conducting an administrative review, the multiple listing committee has a procedure establishing to conduct hearings, the decision of the multiple listing committee may be appealed to the board of directors of the association of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®. *(Amended 2/98)*

Section 9.2 - Complaints of Unethical Conduct

All other complaints of unethical conduct shall be referred by the committee to the secretary of the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. *(Amended 11/88)*

Section 9.3 Complaints of Unauthorized Use of Listing Content

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio, or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

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

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

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination

the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. (Adopted 5/18) **M**

Section 9.4 MLS Rules Violations

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

NOTE : Adoption of Sections 9.3 and 9.4 are not required if the MLS has adopted alternative procedures to address alleged misuse of listing content that includes notice to the alleged infringer.

CONFIDENTIALITY OF MLS INFORMATION

Section 10 - Confidentiality of MLS Information

Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants. (Amended 4/92)

Section 10.1 - MLS Not Responsible for Accuracy of Information

The information published and disseminated by the service is communicated verbatim, without change by the service, as filed with the service by the participant. The service does not verify such information provided and disclaims and responsibility for its accuracy. Each participant agrees to hold the service harmless against any liability arising from any inaccuracy or inadequacy of the information such participant provides.

Section 10.2 - Access to Comparable and Statistical Information

Wholesale distributing of active listings to non-REALTOR® members is prohibited as this is considered confidential business information between the listing office and their client and is intended to be distributed to those designated as REALTORS® and to whom the privilege of sales cooperation is offered through written listing contract. (Amended 2/98)

Short lists should contain a disclaimer and advise to contact listing agent for additional information. Disclaimer will advise that information is received from a 3rd party and offer disclaimer against errors, omissions and contents. (Amended 2/98)

Section 10.3 - Update of Comparable and Statistical Information

Sold information should be updated periodically. Residential sales information should only contain sales for the past twelve (12) to sixteen (16) months. Sales and expired listings are to be removed periodically to maintain a current data base. Residence sales should be within twelve (12) months or less to be acceptable comparables. (Amended 2/98)

OWNERSHIP OF MLS COMPILATION* AND COPYRIGHT

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

Section 11

By the act of submitting any property listing content to the MLS, the participant represents that he has been authorized to license and also thereby does license authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property. (*Amended 5/16*)

M

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. (Adopted 11/15) |

Section 11.1

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

Section 11.2

Each participant shall be entitled to lease from the Coastal Bend Association of REALTORS® a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the association. *

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

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

USE OF COPYRIGHTED MLS COMPILATION

Section 12 - Distribution

Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association multiple listing service where access to such information is prohibited by law. (Amended 4/92)

Section 12.1 - Display

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

Section 12.2 - Reproduction

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

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

** It is intended that the participant be permitted to provide prospective purchasers with

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

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

Nothing contained herein shall be construed to preclude any participant from utilizing displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the participant and those licensees affiliated with the participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (*Amended 05/14*)

USE OF MLS INFORMATION

Section 13 - Limitations on Use of MLS Information

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising

or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

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

Based on information from the Coastal Bend Association of REALTORS® (alternatively, from the Coastal Bend Association MLS) for the period (*date*) through (*date*). (*Amended 11/97*)

CHANGES IN RULES AND REGULATIONS

Section 14 - Changes in Rules and Regulations

Amendments to the rules and regulations of the service shall be by a two-thirds (2/3) vote of the members of the multiple listing service committee, subject to approval by the board of directors of the board of REALTORS® and a quorum of the general membership.

Sections 15 and 16 – Sections 15 and 16 pertain to Open MLS's. Local board does not allow MLS participation by individuals who do not hold REALTOR® membership anywhere (Open), therefore did not adopt the two sections.

ORIENTATION

Section 17 - Orientation

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of not more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. (*Amended 11/04*)

Orientation classes will be scheduled and held quarterly at an announced location. New MLS participants must attend the next available class after the date of joining the MLS. Computer skills to access the MLS and entering listings, photos, etc., will be taught by a person appointed in each brokerage firm at broker's discretion.

Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (*Amended 11/17*)

INTERNET DATA EXCHANGE (IDX)

Note: These model rules, originally adopted in November 2001, are updated to reflect enhancements to the IDX policy approved in November 2006.

Section 18 - IDX Defined

IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's

control: websites, mobile apps, and audio devices. As used throughout these rules, “display” includes “delivery” of such listing. *(Amended 5/17)* **M**

Section 18.1 – Authorization

Participants’ consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant’s listings, that participant may not download, frame or display the aggregated MLS data of other participants *(Amended 5/17)* **M**

Section 18.2 – Participation

Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. *(NAR amendment 11/09)*

Section 18.2.1

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

Section 18.2.2

MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. *(Amended 05/12)* **M**

*Even where participants have given blanket authority for other participants to display their listings through IDX, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. *(Amended 05/17)*

Section 18.2.3

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

Section 18.2.4

Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location (“uptown,” “downtown,” etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, exclusive agency, or open listing), or the level of service being provided by the listing firm. Selection of listing displayed through IDX must be independently made by each participant. *(Amended 11/06)*

Section 18.2.5

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

Section 18.2.6

Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. *(Amended 05/12)* **M**

Section 18.2.7

Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. *(Amended 05/12)*

Section 18.2.8

Any IDX display controlled by a participant or subscriber that

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

either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Amended 05/12)* **M**

Section 18.2.9

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Adopted 05/12)* **M**

Section 18.2.10

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

Section 18.2.11

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

Section 18.2.12

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.* *(Amended 05/17)* **M**

*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application. *(Amended 5/17)*

Section 18.3 - Display

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

Section 18.3.1

Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. *(Amended 05/12)*

Section 18.3.1.1

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. *(Amended 05/12)*

Section 18.3.2 Deleted by NAR 5/15

Section 18.3.3 Deleted May 2017; moved to 18.2.12 May 2017.

Section 18.3.4

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

Section 18.3.5

Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their participant’s consent and control and the requirements of state law and/or regulation.

Section 18.3.6 – Section deleted by NAR 11/06

Section 18.3.7

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

*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application. (Amended 5/17)

Section 18.3.8

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability.* (Amended-05/17)

*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application. (Amended 5/17)

Section 18.3.9

The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than hundred (500) or fifty percent (50%) of the listings available for IDX display, whichever is fewer.

Section 18.3.10

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

Section 18.3.11

Listings obtained through IDX feeds from Realtor® Association MLSs where the MLS participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.* (Amended 05/17) ○

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

*Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application. (Amended 5/17)

Section 18.3.12

Display of expired, withdrawn, and sold listings* is prohibited. (Amended 11/15) ○

***Note:** If “sold” information is publicly accessible, display of “sold” listings may not be prohibited. *(Adopted 11/14)*

Section 18.3.13

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

Section 18.3.14

Participants are required to employ appropriate security protection such as firewalls, on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS. *(Amended 05/12)*

Section 18.3.15

Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. *(Amended 05/12)*

Section 18.4 - Service Fees and Charges

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

Virtual Office Websites (VOWs)

Section 19.1

(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 19 of these Rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees – except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all 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 19 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by by Participants to the MLS and aggregated and distributed by the MLS to Participants.

Section 19.2

(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 19.3

(a) Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

(i) The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

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

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

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

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

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

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

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

(f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

Section 19.4

A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

Section 19.5

A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized 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 19.6

(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 19.7

(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 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

Section 19.8

A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 19.9

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

Section 19.10

Except as provided in these rules, 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 19.11

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

Section 19.12

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

Section 19.13

A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

Section 19.14

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

Section 19.15

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

- a. Expired, and withdrawn listings.

NOTE: Due to the 2015 changes in IDX policy and the requirement that participants be permitted to make MLS listing information available to Registrants of VOW sites where such information may be made available via other delivery mechanisms, MLSs can no longer prohibit the display of pending ("under contract") listings on VOW sites.

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

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

Section 19.16

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

Section 19.17

A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS Listing Information displayed on the VOW is deemed reliable but is not guaranteed accurate by

the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

Section 19.18

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

Section 19.19

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

NOTE 1: The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less.

NOTE 2: Adoption of Sections 19.20–19.25 is at the discretion of the MLS. It is not required that equivalent requirements be established related to other delivery mechanisms.

Section 19.20: A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 (ninety) days.

NOTE: The number of days passwords remain valid before being changed or reconfirmed must be specified by the MLS in the context of this rule and cannot be shorter than 90 days. Participants may, at their option, require Registrants to reconfirm or change passwords more frequently.

Section 19.21: A Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this Section, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information (or that of at least one Participant, in the case of a VOW established and operated on behalf of more than one Participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all Participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

Section 19.22: A Participant shall cause any listing displayed on his or her VOW 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 19.23: A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be

searched separately from listings in the MLS.

Section 19.24: Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

Section 19.25: Where a seller affirmatively directs their listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within 48 hours.

Lock Box/Key Repositories

Section 1: Lock Box Security Requirements

(MLS Policy Statement 7.31)

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the association, its MLS, or by a recognized lock-box vendor on behalf of an association or MLS: *(Amended 5/17)*

1. Types of keys. Any physical or electronic key, programmer, or other device (hereinafter referred to as key) by which a lockbox can be opened, must be non-duplicative. Being non-duplicative means that it cannot be readily copied in the manner that other types of keys ordinarily are. *(Amended 5/17)*

A mobile device (such as, a smart phone, tablet, fob, etc.) can transmit a key to access a lockbox using standard protocols, including Bluetooth, ZigBee, infrared technology, and others. The applications and software used by mobile devices must contain security controls to allow only authorized users access to the lockbox. *(Adopted 5/17)*

As a matter of local discretion, the listing broker or agent can issue temporary codes/access to the lockbox and property on terms and conditions agreed to in advance by the seller. Temporary codes/access must expire within seventy-two (72) hours after being issued or must be under the control of the listing broker or agent. Temporary codes must be a minimum field size of five (5) characters. (XX,XXX) *(Adopted 5/17)*

2. **Security protocols.** Keys must be obtained from the original manufacturer, from a recognized vendor of lockbox systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, associations and MLSs must obtain sufficient information from the original manufacturer and surrounding associations and MLSs in order to determine whether the key's pattern, code, or configuration is already in use. *(Amended 5/17)*

Electronic lockboxes and electronic keys running on mobile devices must incorporate security protocols to prevent the following types of cyber-attacks:

- where an unauthorized user can override or escalate their security credentials
- where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access
- forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user
- digitally signed updates to electronic keys running on mobile devices or electronic lockbox firmware plus a secured update process to prevent unauthorized software from being introduced into the lockbox system
- transmission(s) of frequencies to deceive the lockbox electronics into opening (*Adopted 5/17*)

3. Availability of lockbox system and keys. Any lockbox system must be designated as either an activity of an association of REALTORS® or an association-owned and operated MLS. (*Amended 5/17*)

If the lockbox system is an activity of an association of REALTORS®, then every REALTOR® and REALTOR-associate® and every non-principal broker, sales licensee and licensed or certified appraiser affiliated with a REALTOR®, shall be eligible to hold a key subject to their execution of a lease agreement with the association. (*Amended 11/96*)

If the lockbox system is an activity of an association-owned and operated MLS, then every MLS participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS. (*Amended 5/17*)

As a matter of local discretion, associations and MLSs can determine that key lease agreements executed by non-principal brokers, sales licensees, unlicensed personal assistants, administrative and clerical staff, and licensed, certified, or those seeking to be licensed or certified as appraisers, must also be cosigned by the designated REALTOR® or the office's broker of record. Lease agreements shall spell out the responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the association or MLS that relate to the operation of the lockbox system. The lease agreement shall also provide that keys may not be used under any circumstances by anyone other than the key holder, except as provided elsewhere in this statement of policy. (*Amended 5/17*)

Associations and MLSs may, at their discretion, lease keys to affiliate members of associations who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the lease agreement shall be signed by the keyholder and by a principal, partner, or corporate officer of the keyholder's firm. (*Adopted 5/17*)

Individuals may be required to pay lockbox costs as part of association dues or as part of MLS participation fees pursuant to MLS Policy Statement 7.57, Categorization of MLS Services, Information, and Products and pursuant to NAR Bylaws Official Interpretation #32. No one shall

be required to lease a key from the association except on a voluntary basis. (Adopted 5/17)
Associations and MLSs may refuse to sell or lease lockbox keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 5/17)

- A. The association or MLS determines that the conviction(s) relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts; and (Amended 5/17)
- B. The association or MLS gives the individual an opportunity to provide and the association or MLS must consider mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:
 - (i) the individual's age at the time of the conviction(s)
 - (ii) nature and seriousness of the crime
 - (iii) extent and nature of past criminal activity
 - (iv) time elapsed since criminal activity was engaged in
 - (v) rehabilitative efforts undertaken by the applicant since the conviction(s)
 - (vi) facts and circumstances surrounding the conviction(s) and
 - (vii) evidence of current fitness to practice real estate (Amended 5/17)

Associations and MLSs should be sure to evaluate individuals uniformly, and avoid making exceptions for one individual while denying an exception to another individual with a similar criminal history. (Amended 5/17)

Associations or MLSs may suspend the right of lockbox keyholders to use lockbox keys following their arrest and prior to a nil determination on any such charge if, in the determination of the association or MLS, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk. (Amended 5/17)

4. Audit requirement. Associations or MLSs shall maintain current records as to all keys issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. There shall be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or by receipt of a statement signed by the keyholder and the designated REALTOR®, broker of record, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the keyholder's firm, attesting that the key is currently in possession of the keyholder. (Amended 5/17)

5. Seller authority required. Lockboxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or any other written document. Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property. (Amended 5/17)

6. Reporting missing keys. Associations or MLSs must charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise

unaccountable for keys to the association or MLS. Upon receipt of notice, the association or MLS must take any steps deemed necessary to re-secure the system. (*Amended 5/17*)

7. Rules and procedures governing lockbox systems. Associations or MLSs must adopt written, reasonable, and appropriate rules and procedures for administration of lockbox systems which may include appropriate fines, not to exceed \$15,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association or MLS and set forth in the rules and procedures. All keyholders, whether or not they are association members or MLS participants, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lockbox system. (*Amended 5/17*)

Key lease agreements may contain a liquidated damages provision to offset some or all of the costs in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the keyholder. (*Amended 11/97*)

8. Issuing electronic programmers or keypads on temporary basis. In the event electronic lockbox programmers or keypads are sold or leased, a designated REALTOR® principal or an office's broker of record may purchase or lease additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the issuing association or MLS. When a programmer or keypad is issued on a temporary basis, it shall be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing that the programmer or keypad has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing within two (2) business days after possession of the previously issued programmer or keypad has been reassumed. (*Amended 5/17*) **M**

9. Requiring "approved" lockbox systems. As a matter of local discretion, associations and MLSs may require 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, if adopted by an association or MLS, 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 an association or MLS. The association or 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. The association or 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. (*Amended 05/17*) **M**

Lock Boxes/Key Repositories

Section 2: Lock Box Key Deposits

(Policy Statement 7.32)

Any funds accepted by a member association or association MLS as deposits for lock box keys shall be retained by the association or its MLS in a separate account so that the funds will be available to be refunded to depositors upon return of the lock box key to the association or its MLS. The funds deposited are to be retained for this purpose only and are not to be utilized in any other manner. The separate fund may be an interest bearing account with the interest retained by the association or association MLS unless as a requirement of law, or at the discretion of the association or association MLS, such interest shall be paid to the depositors. **M**

Lock Box/Key Repositories, Section 3:

Centralized Key Repositories

(Policy Statement 7.46)

A centralized key repository is defined as a system operated by an association multiple listing service which enables an MLS participant to place keys to listed properties in a central location to be made available to other participants and their affiliated licensees to facilitate the showing of listed properties. Under certain circumstances and subject to strict operational rules and regulations, an association multiple listing service may choose to operate a centralized key repository in lieu of a lock box system and still be eligible for coverage under the errors and omissions insurance program of the NATIONAL ASSOCIATION OF REALTORS®. (Approved 2/86)

Lock Box/Key Repositories, Section 4:

Minimum Security Measures for Centralized Key Repositories of Association Multiple Listing Services

(Policy Statement 7.47)

1. A centralized key repository is defined as a system operated by a multiple listing service which enables a participant to place keys to listed property in a central location to be made available to other participants and their affiliated sales licensees to facilitate the showing of listed property.
2. Use of the system must be strictly limited to participants and their affiliated sales licensees.
3. Keys to listed property may not be submitted unless the property is exclusively listed by the participant and the listing agreement includes a provision whereby the seller specifically authorizes the listing participant to place keys in the system. In lieu of such authorization in the listing agreement, the MLS may require the seller's authorization be provided on a separate document prepared by the MLS.
4. All keys to listed property must be stored in a locked, secure area in the association or MLS office.
5. All keys become the property of the association or MLS.
6. No key may be issued without the consent of the listing office. Any individual requesting a key must indicate, in writing, who in the listing office has authorized the showing.
7. All keys must be coded in a manner which prevents their identification with a particular property until issued by an authorized representative of the association or MLS.

8. Lost or stolen keys must be reported to the association or MLS as quickly as possible.
9. A police report must be filed as quickly as possible whenever a key is lost or stolen.
10. Any person losing a key must immediately advise the property owner and the listing broker and offer to have all necessary locks changed as quickly as possible.
11. The issuance of keys must be discontinued immediately upon request of the seller.
12. Keys must be issued for a specified period of time and failure to return a key within the allotted time shall be considered as a violation of the rules or procedures. When a key is more than twenty-four (24) hours overdue, the association or MLS must contact the person to whom the key was issued and the principal broker or branch manager of the firm to confirm the key has not been lost or stolen and to request its immediate return.
13. Keys must be destroyed upon expiration of the listing or upon closing (whichever occurs first) or earlier at the direction of the listing participant.
14. All rules and procedures for the operation of any centralized key repository must be in writing and be submitted to the National Association for review and approval prior to implementation.

Any association member or employee involved in the administration or operation of the system shall be bonded. **M**