

**ANN ARBOR AREA BOARD OF REALTORS®**

**MULTIPLE LISTING SERVICE**

**RULES AND REGULATIONS**

(Last Revision October 2018)

## **DEFINITION OF A PARTICIPANT**

For purposes of these MLS Rules & Regulations, the term "participant" is defined as a broker principal or principals, or other person(s) as otherwise defined in the Bylaws. Any non-principal broker or sales licensee affiliated with an MLS "participant" has access to and use of the Multiple Listing Service information "through" the REALTOR® with whom they are affiliated as employees or independent contractors.

### **BYLAWS of the ANN ARBOR AREA BOARD of REALTORS®, Inc.**

(Last revisions Adopted 01/10) ARTICLE

XVIII - MULTIPLE LISTING SECTION 3.

PARTICIPATION.

Any Active REALTOR® Member of this or any other Member Board, who is a sole proprietor, partner, or corporate officer, or branch manager without further qualification, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "Membership" or "Participation" unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by the Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by the Board Multiple Listing Service where access to such information is prohibited by law.

#### **Note:**

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm 'offers or accepts cooperation and compensation' means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and on-going basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a Virtual Office Website ("VOW") (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant "actively endeavors during the operation of its real estate business" to "offer or accept cooperation and compensation" only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)

### **LISTING PROCEDURES**

**SECTION 1** Except as provided below, all exclusive right to sell and exclusive agency listings of real or personal property taken by Participants of this MLS system, which are listed subject to a real estate broker's license, will be input into the MLS computer system within 3 calendar days after all necessary signatures of the seller(s) have been obtained. Listings may not be entered into the MLS system prior to obtaining signatures.

**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 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 and seller).

The Multiple Listing Service will accept exclusive right to sell listing contracts, exclusive agency listing contracts, and limited service listing contracts and may accept other forms of agreement which make it possible for the listing broker to offer cooperation and compensation to the other Participants of the Multiple Listing Service, acting as Sub-Agents, Buyers Agents or both.

The listing contract must include the seller's authorization to submit the contract to the Multiple Listing Service.

**Listing types are defined as follows:**

**Exclusive right to sell listing:**

A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else;

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.

**Exclusive right to sell with named exemptions listing:**

A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s) or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing contract and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker.

**Exclusive agency listing:**

A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.

**NOTE:**

“Exclusive agency listings” and “Exclusive right to sell listings with named exemptions” shall be clearly distinguished by requiring the inclusion of the words “*An exclusive agency listing*” in the “EXCLUSIONS” line of the Profile Listing Form.

These two types of listings can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted.

### **Limited service listing:**

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

- (a) Arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s).
- (b) Accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s).
- (c) Advise the seller(s) as to the merits of offers to purchase.
- (d) Assist the seller(s) in developing, communicating, or presenting counter-offers.
- (e) Participate on the seller(s) behalf in negotiations leading to the sale of the listed property.

will be identified with "LS" in the Listing Type field in the MLS so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

### **Rental Listings:**

Listings available for lease/rent may be placed in the MLS. Rental listings will be disclosed as such by selecting **Rental** in the "Property Type" field. Details of the lease may be placed in the "Agent Remarks" field.

### **Auction Listings:**

Listings available through auction may be placed in the MLS only with a Listing Price (zero-price auction listings will not be accepted). Details of the auction may be placed in the "Agent Remarks" field.

### **Open listing:**

A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker only if the property is sold through the efforts of the listing broker.

**NOTE 1:**

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.

**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 listing 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.

**EXEMPTED LISTINGS:**

Listings exempted of these Rules and Regulations.

- (a) If the seller refuses to permit the property to be listed with the Service, the REALTOR<sup>®</sup> may then take an exclusive right to sell ("office exclusive") and such listing shall be filed with the Service but not disseminated to participants. Filing of the listing shall be accompanied by certification signed by the seller(s) that he/she does not desire the listing to be placed in the Service.
- (b) One time, one party listings.

**SECTION 1:1 LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE:** Except as exempted above, 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.

**SECTION 1:2 DETAIL ON LISTINGS FILED WITH THE SERVICE:** The participant will be responsible to enter the information from the profile listing form and any change or notice reports directly to the MLS Computer system. All required fields must be complete in order to submit the listing.

The MLS Staff will enter the listing at the fee established by the Board of Directors for Board entered listings. A completed (all required fields minimum) current property profile listing form approved by the Multiple Listing Service and at least one (1) photo

must accompany all listings submitted to be entered by Staff. Forms are available at [www.AAABoR.com](http://www.AAABoR.com)

**SECTION 1:3 CHANGES TO A LISTING CONTRACT:** Any change in the listed price or other change in original listing contract will be made only when authorized in writing by the seller(s) and will be input into the MLS computer system by the end of the next day after notice is received by the listing broker. All changes in the listing contract will be input into the MLS computer system by the listing broker. Changes regarding the rate of commission being collected by the listing broker will not be reported to the MLS computer system.

It will remain the responsibility of the listing broker to obtain signature(s) of the seller(s) to validate changes, including price changes, changes in the terms and/or conditions, and temporary discontinuance of showings.

**SECTION 1:4 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 listing service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

**NOTE:**

Sellers do not have the unilateral right to require the MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that the exclusive relationship with the listing broker has been terminated, the Multiple Listing Service may remove the listing at the request of the seller.

**SECTION 1:5 CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions of any term in a listing will be specified and noticed to the Participants. The "Agent Remarks" field of the listing profile shall be used for this purpose.

**SECTION 1:6 LISTING PRICE SPECIFIED:** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

**SECTION 1:7 LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold separately must be listed individually, except that a group of vacant lots may be included in one listing. When a part of any listed property is sold separately, however, a new listing must be filed with the completed sales report accurately describing that portion being sold. A corrected profile listing form will be simultaneously filed, for the remaining balance of the original listing.

**SECTION 1:8 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The Service will not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the service will not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants

**SECTION 1:9 TERMINATION DATE ON LISTINGS:** Listings submitted to the Service will bear a definite and final termination date as negotiated between the listing broker and the seller.

**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 listing profile unless prior to that date the listing broker has extended or renewed the listing in the MLS computer system.

**SECTION 1:11 JURISDICTION:** Only listings of the designated types of property located within Washtenaw County, MI are required to be submitted to the Service. Listings of property located outside the Board's service area will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

**SECTION 1:12 PHOTOGRAPH OF LISTINGS:** At least one (1) photograph will be required for all listings of property which have improvements to the real estate and which are required to be submitted to the Service. New construction listings submitted must include a sketch or rendering of the proposed construction. Vacant land listings (unimproved property) must contain a sketch, photo, or diagram for the purpose of describing and locating the property.

**NOTE:**

Sellers may expressly direct that photos of their property not appear in the MLS. The listing agent must submit the seller's direction, in writing with seller's signature, to the MLS office within 3 calendar days of inputting the listing in the MLS. Listing agent must insert the "No photo- per request of the seller" place holder jpg that is available within the ML, in the position of the #1 photo.

**SECTION 1:13 IMAGERY:** All imagery that is permitted by the MLS to be sent to the public shall be unbranded. Any branded imagery is restricted to the "Agent Remarks" field.

**Imagery** is defined as any photograph, virtual tour, video, slide show, URL (internet address), drawing, sketch, floor plan or other representation submitted to the MLS for dissemination to other participants in connection with a real property listed in the MLS.

**Branding** is defined as any sign, email address, web site, URL (internet address), office-mobile-fax number, company affiliations, primary or ancillary advertisement, logo, agent or team name or any other identifiable code or symbol or image that identifies any person, place or thing connected to any real estate related person, business or other entity.

**NOTE:**

Upon submitting imagery to the MLS, the MLS Participant is representing that the Participant owns the copyright or has a license from the copyright holder to authorize



and is authorizing the MLS to publish the imagery anywhere the MLS data is intended to appear. Copying photos or the description in other agents listings would be a violation and subject to enforcement procedures.

**SECTION 1:14 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, an association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise their clients.

**SECTION 1:15 LISTINGS OF EXPELLED PARTICIPANTS:** When a participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled participant shall, at the participant's option, be retained in the service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a participant has been expelled from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the expelled participant's listings in the MLS compilation of current listing information.

Prior to any removal of an expelled participant's listings from the MLS, the expelled participant should be advised, in writing, of the intended removal so that the expelled participant may advise their clients.

**SECTION 1:16 LISTINGS OF TERMINATED PARTICIPANTS:** When a participant of the service is terminated from the MLS, the MLS is not obligated to provide services, including continued inclusion of the terminated participant's listings in the MLS compilation of current listing information. Prior to any removal of a terminated participant's listings from the MLS, the terminated participant should be advised, in writing, of the intended removal so that the terminated participant may advise their clients.

## **SECTION 1:17 LISTING FORMAT RULES:**

- a) Use of the REMARKS field (aka “Public Remarks”) must be limited to descriptions/details of the property unless otherwise stated in these rules. Examples, but not limited to, of the types of information not allowed in this field are: Contact, Showing or Open House information; agent web addresses; broker or agent marketing/promotion.

Third party approval of sales contracts must be noted in the “Remarks” field of the listing with the words “Subject to third party approval”.

Vacant Land with proposed construction that is listed in the Residential Section must contain the words “TO BE BUILT” as the first three words in the Public Remarks. Only letters will be allowed with one space between words (no special characters or punctuation). Only one (1) active TO BE BUILT listing is permitted per vacant land listing.

“To Be Built” – Vacant Land with proposed construction. No ground broken, no construction started.

“New Construction” – Foundation in and/or some building has begun.

- b) The “agents’ remarks” field shall be used for information not permitted in the “public remarks” field.
- c) Syndication Remarks are intended to be included in listing displays on “third party” websites and are considered public remarks which will be disseminated to third-party sites through an approved RETS feed. Participants and Subscribers may only include the physical characteristics of the property and/or neighborhood, listing agent and contact information, including phone numbers, email addresses, website information and open house information. Syndication Remarks must follow Code of Ethics guidelines.
- d) The current correct status of a property listed in the MLS is required.

### **Under Active Status, the following will apply:**

Active	There is no contract – please show
Active-Contingent	There is a contract with contingencies – showings are desired
Active-LTC	There is a contract – with a limited time clause

### **Under Pending Status, the following will apply:**

Pending	There is a contract - no showings
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**Under Withdrawn Status, the following will apply:**

\* Withdrawn                      There is no longer a listing contract

**Under Temporarily off Market Status, the following will apply:**

Temporarily off Market      The listing is still under contract with specific conditions, but not currently being marketed.

\* **NOTE:** A cancellation and new listing agreement must be executed and available to send to staff immediately upon request for properties withdrawn and relisted by the same agent.

- e) The Tax I.D. (property I.D.) number is required to be the property number issued by the county in which the property is located and to be listed in the standardized format of that county.
- f) It will be the responsibility of the listing Broker to ensure that the applicable MLS RULES are followed with respect to signatures and the time requirements for inputting appropriate changes into the system.
- g) Attachments to a listing placed in the ML system shall be directly related to that property and/or transaction. No other attachments are permitted.
- h) All listings submitted to the MLS must include the square footage and the source of the figure.

All square footage below grade shall be listed in the Below Grade Sq Ft field only, and not included in the Above Grade sq. ft.

Finished areas in lower levels of any house which are at least five feet above grade level on **all** exterior walls and are finished to the same quality level as all other areas of the house including heating, electrical and plumbing systems may be included in above grade sq. ft. i.e. bi- level, tri-level.

Legal bedrooms in the lower level (as defined by the municipality the property is located in) may be included in the Total bedroom count but **MAY NOT** be included in the Above Grade Sq. Ft. unless it meets the requirements in the above paragraph.

The additional living space in a room over the garage, if it is attached to and directly accessible from the main dwelling, may be included in the above grade sq ft. If it is detached and/or not directly accessible from the main dwelling, then it may not be included in the above grade square footage but can be noted in the Remarks field of the listing.

- i) The required fields for both listing input and sold information must contain current and accurate information.
- j) Listing must be input into the MLS computer system within 1 business day after a "For Sale" sign is placed on the property.
- k) "No Showings" – When a property is listed actively for sale in the MLS and cannot be shown due to unusual circumstances or repairs, the date available for showings must be published in the Agent Remarks section of the listing and may be published in the Syndication Remarks section of the listing. The maximum time to delay a property showing is 5 calendar days.
- l) Common-wall condos and Co-Op's shall be listed under the Condo sub-type only.

## **SELLING PROCEDURES**

**SECTION 2 SHOWINGS AND NEGOTIATIONS:** Appointments for showing and negotiations with the seller for the purchase of listed property filed with the Service will be conducted through the listing broker except under the following circumstances:

- (a) The listing broker gives the cooperating broker specific authority to negotiate directly or;
- (b) After reasonable effort (1 day) the cooperating broker cannot contact the listing broker or their representative. In such cases, the cooperating broker may negotiate directly, but must be accompanied by any Officer or Director of the Board or the Chairman of the Multiple Listing Committee providing the person is not connected with the cooperating office. However, the listing broker, at their option, may preclude the direct negotiations by the cooperating broker by filing a letter with the Board office.

**SECTION 2:1 PRESENTATION OF OFFERS:** Listing broker must make arrangements to present an offer immediately or give the cooperating broker satisfactory reason for not doing so.

**SECTION 2:2 SUBMISSION OF WRITTEN OFFERS AND COUNTEROFFERS:** The listing broker will submit to the seller(s) 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 will recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

**SECTION 2:3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:**

The cooperating broker or their representative has the right to be present when an offer he/she secured is presented by the listing broker to the seller or lessor. He/She 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(s) or lessor(s) gives written instructions to the listing broker that the cooperating broker not be present when an offer which has been secured by the cooperating broker is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

**SECTION 2:4 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFERS:**

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

**SECTION 2:5 REPORTING STATUS CHANGES TO THE SERVICE:** All status changes shall be reported to the multiple listing service, by the listing broker, within 2 calendar days after they have occurred (beginning January 1, 2019) with the exception of reporting sales (Section 2:6)

**SECTION 2:6 REPORTING SALES TO THE SERVICE:** Within 3 business days after the sale is closed, the listing broker must input a completed sales report, including actual sale price to be recorded with the local taxing authority and terms, into the MLS Computer System. If the listing broker does not report the sale within 3 business days of closing, the selling office may file the completed sales report with the Board staff for input.

The listing broker shall report to the Multiple Listing Service within twenty-four (24) hours, that a contingency on file with the Multiple Listing Service has been fulfilled or renewed or the agreement cancelled.

Sales of one-time, one-party listings or any other listing exempt from submission to the Service may be reported for comp purposes.

**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 immediately edit the listing in the MLS Computer upon the cancellation of any pending sale, and the listing shall be reinstated immediately.

For board-entered listings, listing broker will immediately submit a notice, by email or fax, to the MLS office at the time any pending sale is cancelled and the listing will be reinstated within 2 days.

### **SECTION 2:9 DISCLOSING THE EXISTENCE OF OFFERS**

Listing brokers, in response to inquiries from buyers or cooperating brokers agents, shall disclose the existence of offers on the property. The listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. Sellers may direct, in writing and dated, that offers not be disclosed. Such written request must be immediately available when requested by REALTORS or the MLS.

## **PROHIBITIONS**

### **SECTION 3 PROHIBITIONS**

**SECTION 3:1 INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with Multiple Listing Service will not be made available to any non-participant in the Service without the consent of the listing broker.

**SECTION 3:2 "FOR SALE" SIGNS:** Only the "For Sale" signs of the listing broker may be placed on a property.

**SECTION 3:3 "SOLD" SIGNS:** Prior to closing, only the "Sold" sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

**SECTION 3:4 SOLICITATION OF LISTING FILED WITH THE SERVICE:** No solicitation of any kind will be made for listing a property in the Service by other than the listing broker until the listing is expired, unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice and its Case interpretations.

**SECTION 3:5 OPEN HOUSES:** A licensee, licensee's representative or the homeowner must be present during a "Public" Open House.

A REALTOR® Open House (Office only or MLS wide) must have the statement "ELB ONLY" (electronic lockbox) in the open house remarks field if non-hosted.

**SECTION 3:6 PROPERTY ACCESS:** Access to property may not be given, under any circumstances, to anyone other than persons authorized by either the Seller or Listing Agent. The Cooperating Agent is required to be physically present for all showings unless prior express written consent is given by the Listing Agent and/or Seller to the contrary.

## **DIVISION OF COMMISSIONS**

**SECTION 4 COMPENSATION SPECIFIED ON EACH LISTING:** The listing broker shall specify on each listing submitted to the Multiple Listing Service, compensation being offered to other Multiple Listing Service Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

In filing a property with the multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants.

Specifying the compensation on each listing is necessary because the cooperating broker has a right to know what their compensation will be prior to any endeavor to sell.\* (Previous Section 5, Note 2)

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

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

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

This does not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on their listings as published by the MLS, providing the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the Service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Previous Section 5, Note 2)

**Note 1:**

The Board Multiple Listing Service will not have a rule requiring the listing broker to disclose the amount of total negotiated commission in the listing contract, (Previous Note 3) and the Board Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The Board 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 being offered to other Multiple Listing Service Participants for their services with respect to any listing by editing the listing in the MLS computer so that all participants will be advised. (Previous Note 1)

**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:**

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

**SECTION 4.0.1 COMPENSATION CODES:** The Compensation is entered in the Compensation Code fields of “Buyer Agent”, “Sub agent”, and/or “Transaction Coordinator” in the listing profile.

- (a) **PERCENTAGE (P):** The “P” represents percent. The first digit being the full percentage point and the second digit being the partial percentage (no decimal is used).  
Example: P30 (3% offered)
  
- (b) **DUAL COMMISSION SPLIT:** the two digits would be followed by a letter code:

- C** = 100 (means above \$100,000)
- E** = 200 (means above \$200,000)
- F** = 300 (means above \$300,000)



**G** = 400 (means above \$400,000)  
**H** = 500 (means above \$500,000)  
**I** = 600 (means above \$600,000)  
**J** = 700 (means above \$700,000)  
**K** = 800 (means above \$800,000)  
**L** = 900 (means above \$900,000)  
**M** = 1000 (means above \$1,000,000)

Example: P35C25 (3.5% offered on the first 100K, 2.5% offered after \$100,000).

- (c) **DOLLAR (D):** If a set dollar figure is offered instead of percentage, use the "D" to represent the dollar figure being offered as commission.

Example: D2000 (\$2000 offered)

- (d) **BONUS TO SELLING BROKER:** When offering a selling bonus to a selling broker, the listing broker must specify the terms of the bonus offer according to the following guideline code:

**B dollar amount/terms/expiration date of offer** (if applicable)

EXAMPLE: B1000/APT/062109

(\$1000 Bonus on Accepted Price & Terms/ Offer Good until June 21, 2009)

B1000/FPT/123109

(\$1000 Bonus on Full Price & Terms/ Offer Good until December 31, 2009)

Bonus information may be placed in "Agent Remarks " field.

- (e) **VARIABLE RATE COMMISSION** shall be disclosed by the listing broker by indicating "Y" in the Variable Rate Commission field.

Variable rate is a commission arrangement 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.

The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a

buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

**SECTION 4.1 DISCLOSING POTENTIAL SHORT SALE:** Participants must disclose potential short sales when reasonably known to the listing participants. A short sale is 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.

**SECTION 4:2 PARTICIPANT AS PRINCIPAL:** If a participant or any licensee 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 4:3 PARTICIPANT AS PURCHASER:** If a participant or any licensee 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.

### **SERVICE CHARGES**

**SECTION 5 PAYMENT OF MLS FEES AND CHARGES:** All MLS fees and charges, including, but not limited to initial participation fees, recurring participation fees, listing origination fees, subscription fees, etc., will be assessed to MLS Participants or to individual users as subscribers. This does not preclude an MLS Participant from being reimbursed by affiliated licensees for fees or charges incurred on their behalf pursuant to any in-house agreement that may exist. If direct billing of subscribers is utilized, the ultimate responsibility for delinquent dues, fees and charges is that of the Participant unless appropriate rules or bylaws make subscribers exclusively responsible for such financial obligations.

However, MLS's must provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLS's may, at their discretion, require waiver recipients and their participants to sign a certification for non-use of its MLS services, which can include penalties and termination of the waiver if violated.

The following service charges for operation of the service will be made to defray costs:

- (a) **"MLS USER FEES":** The exact base amount of the fee shall be recommended annually by the Finance Committee and approved by the Board of Directors. The monthly user fee for each Participant shall be computed by multiplying this base amount times each salesperson and licensed or certified appraiser, whether licensed as a broker, sales licensee, and licensed or certified appraiser who is employed by

or affiliated as an independent contractor with such Participant.

- (1) Licensees newly affiliated with Participant on or after the 15<sup>th</sup> of the month will not be computed into the Participant's MLS user fee until the following month.
- (2) Credit will be issued for terminations that take place on or before the 15<sup>th</sup> of the month. Exception: Licensees reinstated within 30 days with same firm will not be eligible to receive such credit.
- (3) Upon approval, the Participant of the service shall be exempt from payment of MLS user fees for any individual employed by or affiliated as an independent contractor with the Participant who does not log into or use the listing information stored in the MLS. Such access and use includes other devices or services provided by the MLS or its licensed vendors that permit access to and use listing information from the MLS

Request for exemption must be filed with the Policy Appeals Panel using the current *User Fee Exemption Request* form (available at [www.AAABoR.com](http://www.AAABoR.com)).

Exemptions are granted for a specific period. Any request for renewal must be submitted at least 30 days prior to expiration.

The exemption shall be effective on the date approved by the Board of Directors. No user fee exemptions are retroactive without express approval of the Board of Directors.

- (a) Examples of exemptions may include those for a licensed individual engaged solely and exclusively in performing non-selling functions such as administrative assistants (i.e., closing secretaries), or residential property managers, from the active practice of listing and selling or appraising real estate.
  - (b) Seasonal departures from the area and business do not qualify for exemption.
  - (c) The Participant is not personally eligible for user fee exemption.
  - (d) Any evidence of any listing or sales activity by the exempted party will automatically result in denial/revocation of the exemption.
- (b) **"LISTING INPUT FEES"**: A participating MLS firm will pay a listing input fee in an amount established by the Finance Committee for a

“board entered’ listing.

- (1) The Board-entered listing input fee is generated at the time the listing is input to the MLS computer system.

**SECTION 5:1** All other fees and charges for Multiple Listing Services will be billed to the Participant on the first of the month following the month for which the fees and charges are applicable.

### **COMPLIANCE WITH RULES**

**SECTION 6 COMPLIANCE WITH RULES:** The following action may be taken for non-payment of fees:

- (a) Access to the MLS computer system will be suspended until the amount due is paid in full for failure to pay any amount due in provisions of Board Policies 8.19 A.2., 8:19 B.2. and/or 8.20 B.

### **ENFORCEMENT OF RULES OR DISPUTES**

**SECTION 7 CONSIDERATION OF ALLEGED VIOLATIONS:** The MLS Committee will give consideration to all written complaints having to do with a violation of the Rules and Regulations.

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service committee, and if a violation is determined, the committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of Realtors® within twenty (20) days following receipt of the committees decision.

If, rather than conducting an administrative review, the Multiple Listing committee has a procedure established to conduct hearings, the decision of the Multiple Listing committee may be appealed to the board of directors of the association of Realtors® within twenty (20) days of the tribunal’s decision being rendered. Alleged violations involving unethical conduct shall be referred to the association’s grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of Realtors®.

**SECTION 7:1 COMPLAINTS OF UNETHICAL CONDUCT:** All complaints of unethical conduct shall be referred by the MLS Committee to the Executive Officer for referral to the Professional Standards Committee.

**SECTION 7:2 REPORTING SUSPECTED VIOLATIONS:** Participants shall use the “Report Violation” quick link within Rapattoni or shall submit suspected violations in writing.

## **SECTION 7:3 ENFORCEMENT OF REQUIRED LISTING FIELDS AND ML RULES** (indicated by the words “required”, “shall” or “must” in a rule)

Data Error Report\* about incorrect information in a required field – Staff to verify.

1. Email sent to agent and Broker detailing error/violation and requesting correction within 3 calendar days.
2. If not corrected within 3 calendar days, staff is to remove any data violations which could possibly render the listing unapproved, and email agent and broker on what action was taken by staff. This will incur a \$100.00 fine.
3. Staff to log all Data Error Reports not corrected – agent name, broker, MLS number, date of listing, date of reported error, and description of error.
4. Repeat offender – (does not need to be same field – commonality is based on being “required”.) additional violations:
  - 2nd violation in a rolling 12 month period will incur a \$250.00 fine.
  - 3rd violation in a rolling 12 month period will incur a \$1000.00 fine.
  - 4th and all subsequent times in a rolling 12 month period will incur a \$1500.00 fine and loss of MLS privileges for 7 days.\*\*

\* **NOTE 1:** Data Error Reports are emails sent from MLS users to staff from within Rapattoni. When viewing a listing, there is a link located on the top right, labeled “Report Violation”.

\*\* **NOTE 2:** Each listing is equal to one violation.

**SECTION 7:4 ADDITIONAL DATA RELATED FINES:** The following fines are levied based on the data input date captured by the software.

- (a) A charge of \$10.00 per day will accumulate whenever a NEW listing is not filed and input to the MLS System within the 3 day time period.
- (b) A charge of \$10.00 per day will accumulate whenever a final sales report is not delivered and input to the MLS System within the 3 day time period.
- (c) A fine of \$50 will be levied for any listing that is input to the MLS System prior to the date the listing is signed. Further, the infraction will be forwarded to the Grievance Committee for investigation.
- (d) A fine of \$1,000 will be enforced for distribution of any access to the MLS Database to unauthorized persons.

## **MEETINGS**

**SECTION 8 MEETINGS OF MLS COMMITTEE** The MLS Committee will meet for the transaction of its business at a time and place determined by the Committee or at the call of the Chairman.

**SECTION 8:1 MEETINGS OF MLS PARTICIPANTS** The MLS Committee may call meetings of the Participants in the Service to be known as meetings of the MLS.

**SECTION 8:2 VOTING BY PARTICIPANTS:** In any matter requiring the approval of the MLS Participants, the right to vote accrues to the designated Participant of each MLS office. The participant is eligible to cast one vote for the office.

## **CONFIDENTIALITY OF MLS INFORMATION**

**SECTION 9 CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the Multiple Listing Service to the Participants will be considered official information of the Service. Such information will be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participant 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 and valuation specialists affiliated with such Participants.

**SECTION 9:1 MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:** The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. It is the responsibility of the Participant to verify all published information. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

**SECTION 9:2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:** Board Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Board Members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise provided in these Rules and Regulations.

**SECTION 9:3 AUTHORIZATION OF BOARD STAFF TO MAKE CORRECTIONS:** Board staff is authorized to make changes to MLS data when requested by a

participant or to correct information of listings with verified reported errors. Board staff will require documentation for the change (i.e. closing documents).

## **OWNERSHIP OF MLS COMPILATION\* AND COPYRIGHT**

**SECTION 10** By the act of submitting any property listing content to the MLS, the participant represents that he/she has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and in any statistical report. 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.

### **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 MLS’s 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 prevents 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 MLS’s, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

(1) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.

(2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.

(3) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.

(4) Have no actual knowledge of any complained-of infringing activity.

(5) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.

(6) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP's copyright infringement liability. For more information see 17 U.S. C. §512.

**SECTION 10:1** All right, title, and interest in each copy of every MLS Compilation created and copyrighted by the Ann Arbor Area Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the Ann Arbor Area Board of REALTORS®.

**SECTION 10:2** Each participant will be entitled to lease from the Ann Arbor Area Board of REALTORS® a number of copies/accesses of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with a Participant with one copy/access of such MLS Compilation. The Participants will acquire by such lease only the right to use the MLS Compilations in accordance with these rules.

**NOTE:**

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

**USE OF COPYRIGHTED MLS COMPILATION**

**SECTION 11 DISTRIBUTION:** Participants will at all times maintain control over and responsibility for each copy/access of any MLS Compilation leased to them by the Board of REALTORS® and will not distribute any copies/accesses to persons other than persons who are affiliated with Participants as licensees or those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board 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 a Board Multiple Listing Service where access to such information is prohibited by law.

**SECTION 11:1 USER NAMES AND PASSWORDS:** REALTOR® members, non-Member Salespersons, and MLS-only subscribers receive one user name and password each as MLS subscribers.

ML users may request a user name and password (with limited privileges) for assistant(s). This user name and password will be used for "identity sharing" with the



requesting ML user. Requests for assistant user name(s) and password(s) must be submitted in writing.

“Office access” level user names and passwords will be issued for administrative use.

**NOTE 1:** ML user is defined as anyone who pays monthly ML fees.

**NOTE 2:** A fine of \$1,000 will be enforced for distribution of any MLS access to the MLS Database to unauthorized persons.

**SECTION 11:2 DISPLAY:** Participants and those persons affiliated as licensees with such Participants will be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing and able buyers for the properties described in said MLS Compilation.

**SECTION 11:3 REPRODUCTION:** Participants or their affiliated licensees shall not reproduce any MLS Compilations or any portion thereof except in the following limited circumstances:

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

Participants or their affiliated licensees may also reproduce copies of property listing data contained in the MLS compilation and distribute such copies, or pertinent information contained therein, to their clients or prospective clients for market analysis or other appropriate brokerage or appraisal.

Nothing contained herein will 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.

Reproductions made in accordance with this rule will 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.

Any MLS information, whether provided in written or printed form, electronically, or in any other format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who is 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 will 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. MLS's must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLS's may require execution of a third-party license agreement where deemed appropriate by the MLS. MLS's 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 be not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

**NOTE:**

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 purchasers' decision-making process in the consideration of a purchase. Factors which will be considered in deciding whether the reproductions made are consistent with this intent, and thus "reasonable" in number, will 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.

**LIMITATIONS ON USE OF MLS INFORMATION**

**SECTION 12** Information from MLS compilations of current listing information, statistical reports, and any sold or comparable report of the Board 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 or were 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 Board 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 Ann Arbor Area Board of REALTORS® Multiple Listing Service for the period (date) through (date).”

### **ELECTRONIC LOCKBOX SYSTEM**

**SECTION 13** The Multiple Listing Service of the Ann Arbor Area Board of REALTORS® will maintain an electronic lockbox system.

- (a) The Multiple Listing Service of the Ann Arbor Area Board of REALTORS® hereby adopts and follows the applicable security requirements outlined in Statement 7.31 of the current NAR Handbook on Multiple Listing Policy.
- (b) The Ann Arbor Area Board of REALTORS® will loan, lease or sell electronic lockboxes and electronic lockbox keys to any MLS participant or subscriber.
- (c) The Ann Arbor Area Board of REALTORS® will sell electronic lockbox keys to non-member REALTORS®, who hold primary membership in another Association and verification of a current Michigan Real Estate License.
- (d) Lockboxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or in a separate document created specifically for the purpose. Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property.

**SECTION 13:1 KEYS** The common electronic lockbox key (card) used in the system will be of a non-duplicative variety and shall be required to renew on a regular basis.

- (a) Keys (cards) will be issued only to those persons authorized by these Rules and Regulations of MLS. Only one key (card) may be active for each authorized person, including:
  - 1. Affiliate members with a need to have, i.e. – inspectors, appraisers.
  - 2. Office assistants
  - 3. Team assistants
- (b) Whenever a keyholder transfers from one Participant to another Participant, the key (card) stays with the keyholder.
- (c) The keyholder will immediately inform the MLS of any key (card) lost, stolen or otherwise unaccounted for.

- (d) Replacement keys (cards) are available for a fee determined by the Board of Directors.
- (e) Keys (cards) may not be used under any circumstances by anyone other than the keyholder.

**SECTION 13:2 LOCKBOXES:** The Board will have electronic lockboxes for purchase. The cost for member purchase or replacement of electronic lockboxes shall be as determined by the Board of Directors.

**SECTION 13:3 SHOWINGS:** Unless noted in the MLS, showings must be authorized by the listing office prior to using a key (card).

### **CHANGES IN RULES AND REGULATIONS**

**SECTION 14 CHANGES IN RULES AND REGULATIONS:** Changes in the Rules and Regulations of the Service may be made in the same manner as provided in Article XVIII of the Board Bylaws.

NOTE:

BYLAWS of the ANN ARBOR AREA BOARD of REALTORS<sup>®</sup>, Inc  
(Last revisions Adopted 01/10)

ARTICLE XVIII - MULTIPLE LISTING

SECTION 9. RULES AND REGULATIONS.

(a) The Board of Directors may adopt such Rules and Regulations as may be required from time to time, which shall be subject to the Bylaws of the Board.

(b) Proposed Rules and Regulations may be initiated by the Board of Directors, majority vote of the Multiple Listing Committee submitting such proposal to the Board of Directors or by petition signed by not less than ten (10) Participants of the Service in good standing submitting such petition to the Board of Directors.

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

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.

**SECTION 15** Subject to the following rules, MLS Participants may display on their public web site aggregated MLS listing information through framing of data or via data download.

**SECTION 15.1** Participant's consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.

**SECTION 15.2** Participation in IDX is available to all MLS participants who consent to display of their listings by other participants.

**SECTION 15.2.1** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

**SECTION 15.2.2** MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines.

**SECTION 15.2.3** 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.

**SECTION 15.2.4** 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 or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each participant.

**SECTION 15.2.5** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every 12 hours.

**SECTION 15.2.6** 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.

**SECTION 15.2.7** 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.

**Section 15.2.8** 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 15.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

**SECTION 15.2.9** Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

**SECTION 15.2.10** 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 MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLS's. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLS's on a single search results page; and that Participants may display listing from each IDX feed on a single webpage or display.

**SECTION 15.2.11** 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 fewer than all of the available listings or fewer authorized fields.

**SECTION 15.2.12** 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.\*

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

**SECTION 15:3** Display of listing information pursuant to IDX is subject to the following rules:

**SECTION 15.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed.

**SECTION 15.3.4** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their participant’s consent and control and the requirements of state law and/or regulation.

**SECTION 15.5** Service fees and charges for participation in IDX shall be established annually by the Board of Directors.

### **VIRTUAL OFFICE WEBSITES (VOW’s)**

#### **SECTION 16.1 VOW Defined**

- a. A “Virtual Office Website” (VOW) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with their 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 16 of these rules, the term “participant” includes a participant’s affiliated non-principal brokers and sales licensees— except when the term is used in the phrases “participant’s consent” and

“participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a participant.

- c. “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of

its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.

- d. As used in Section 16 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

## **SECTION 16.2**

- 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). M
- 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 16.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on their VOW, the participant must take each of the following steps.



- i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at their option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
  - i. that the Registrant acknowledges entering into a lawful consumer- broker relationship with the participant

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

**SECTION 16.4** 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 16.5** A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

**SECTION 16.6**

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold

the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

**Seller Opt-out Form**

- 1. Check one.
  - a. I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.
  - b. I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
- 2. I understand and acknowledge that if I have selected Option a., consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.
  - c. The participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

**SECTION 16.7**

- a. Subject to Subsection b., below, a participant's VOW may allow third- parties:
  - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in

Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 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 16.8** A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty- eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**SECTION 16.9** A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every 3 days per NAR policy.

**SECTION 16.10** Except as provided in these rules, in the National Association of Realtors<sup>®</sup> VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

**SECTION 16.11** 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 16.12** 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<sup>®</sup>.

**SECTION 16.13** 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 16.14** A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates their own VOW may contract with an AVP to have the AVP operate other VOWs on their behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

**SECTION 16.15** A participant's VOW may not make available for search by or display to Registrants any of the following information:

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

**SECTION 16.16** 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 16.17** A participant shall cause to be placed on their 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 16.18** A participant shall cause any listing that is displayed on their 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 16.19** A participant may display advertising and the identification of other entities ("co-branding") on any VOW the participant operates or that is operated on their 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 16.20** A participant shall cause any listing displayed on their VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

**SECTION 16.21** A participant shall cause any listing displayed on their 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 16.22** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

**SECTION 16.23** 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 forty-eight (48) hours.