

2009

MULTIPLE LISTING SERVICE

RULES AND REGULATIONS

of the

**GILLESPIE COUNTY
BOARD OF REALTORS[®] Inc.**

Gillespie County Board of REALTORS[®], Inc

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Approved by the GCBR's Directors and Officers on April 30, 2009

**RULES AND REGULATIONS
OF THE
GILLESPIE COUNTY BOARD OF REALTORS® Inc.
MULTIPLE LISTING SERVICE**

LISTING PROCEDURES

Section 1 Listing Procedures: Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the Multiple Listing Service, and are taken by participants on a form the Participant individually chooses to utilize provided the listing is of a type accepted by the Service shall be delivered to the Multiple Listing Service, along with at least a Main Photo of the listed property, within forty eight (48) hours after all necessary signatures of seller(s) have been obtained:

- (a) single family homes for sale or exchange
- (b) vacant lots and acreage for sale or exchange
- (c) multi-family and residential property for sale or exchange
- (d) commercial

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:

1. may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants
2. assure that no listing form filed with the Multiple Listing Service establishes, directly or indirectly, any contractual relationship between the Multiple Listing Service and the client (buyer or seller)

The Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other Participants of the Multiple Listing Service acting as subagents, buyer agents, or both. Care shall be exercised to ensure that a simple designation be used to denote exclusive agency and exclusive right to sell listings with prospect reservations, since it can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings without prospect reservations.

For Sale By Owner properties may NOT be listing in the Multiple Listing Service.

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

Types of Properties: The following are some of the types of properties that may be published through the Service, including types described in the preceding paragraph that are required to be filed with the Service and other types that may be filed with the Service at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker:

1. Residential
2. Residential with acreage
3. Residential Income
4. Subdivided Vacant Lot
5. Land and Ranch
6. Business Opportunity
7. Motel-Hotel
8. Mobile Homes with real estate
9. Mobile Home Parks
10. Commercial Income
11. Industrial
12. Rentals

Section 1.1 Listings Subject to the Rules and Regulations of the Service: Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the rules and Regulations of the Service upon signature of the seller(s). Any violations of the Rules and Regulations of this Service will be subject to the enforcement and policy fines adapted by the Gillespie County Board of REALTORS® Multiple Listing Service. See MLS Polices & Fines For Violation of Rules.

Section 1.2 Detail on Listings Filed with the Service: A listing agreement or property data form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the Property Data Form.

Section 1.3 Exempted Listings: If the seller refuses to permit the listing to be disseminated by the Multiple Listing Service, the Participant may take the listing "office exclusive" and such listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service.

Section 1.4 Change of Status of Listing: Any change in listed price or other change in the status, other than Deleted or Expired shall be made only when authorized in writing by the seller and shall be filed with the Multiple Listing Service within twenty-four (24) hours (excepting weekends, holidays and postal holidays) after the authorized change is received by the listing broker.

Section 1.5 Withdrawal of Listings 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 Multiple Listing Service,

including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

A listing cannot be withdrawn, expired or deleted to avoid reporting an accurate sales price and closing information, and is subject to fines if that is found to be the case. A fine/fines will be applied within 72 hours after Participant has been notified of said violation.

First Violation of Section 1.5: \$1,000.00
Second Violation of Section 1.5: \$2,000.00
Third Violation of Section 1.5: \$3,000.00
Fourth Violation of Section 1.5: 30 day suspension of MLS privileges

Section 1.6 Contingencies applicable to Listings: Any contingency or condition of any term in a listing agreement shall be specified and noticed to the Participants.

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

Section 1.8 Listing Multiple Unit Properties: All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the Multiple Listing Service. *A property may be listed in the MLS system in more than one time in the same class. Additional listings of same property must be deleted from all additional classes after the sale of the property.*

Section 1.9 No Control of Commission Rates or Fees Charged by Participants: The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

Section 1.10 Expiration of Listings: Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration dates specified in the agreement unless prior to that date the MLS receives notice that the listing has been extended or renewed.

Expired listings remain in the Navica system as expired for 90 days. After 90 days, listings go to the deleted status and are purged from the system 8 days later. All purged listings continue to be available through History Search. Closed listings will remain for 1825 days, then will go to the deleted status, then purge 8 days later.

If notice of renewal or extension is received after listing has been removed from the compilation of current listings the extension or renewal will be published in the same manner as a new listing.

Section 1.11 Termination Date on Listings: Listings filed with the Service shall bear a definite and final termination date as negotiated between the listing broker and the seller(s).

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

Section 1.13 Listings of Suspended Participants: When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board 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 Board, (except where MLS participation without Board Membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised in writing of the intended removal so that the suspended Participant may advise his clients.

Section 1.14 Listings of Expelled Participants: When a Participant of the Service is expelled from the MLS for failing to abide by the membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his clients.

Section 1.15 Listings of Resigned Participants: When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned

Participant should be advised in writing of the intended removal so that the resigned Participant may advise his clients.

SELLING PROCEDURES

Section 2. Showings and Negotiations: Appointments for showings and negotiations

with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker except under the following circumstances:

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

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

Section 2.2 Submission of Written Offers and Counter-offers: The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

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

Section 2.3 Right of Cooperating Broker in Presentation of Offer: The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

Section 2.4 Right of Listing Broker in Presentation of Counter-Offers: The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except 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 Sales to the Service: Sales shall be reported to the Multiple Listing Service **within 48 hours** by the listing broker unless the negotiations were carried on under Section 2 a) or b) hereof, in which case the cooperating broker shall report, sending a copy to the listing broker within twenty-four (24) hours after acceptance. The closing of all sales shall be reported to the Multiple Listing Service within forty-eight (48) hours after the date of closing **and funding. At the time of sale, listing agent must adjust listing price and listing information to reflect the true sales statistics to prevent causing misleading market information. A fine of \$100.00 will be assessed for failure to comply. Status changes, including final closing of sales, shall be reported to the multiple listing service by the listing broker within 48 hours after they have occurred. If negotiations were carried on under Section 2 a or b hereof, the cooperating broker shall report accepted offers to the listing broker within 48 hours after the occurrence and the listing broker shall report them to the MLS within 48 hours after receiving notice from the cooperating broker.**

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

Section 2.6 Reporting Resolutions of Contingencies: 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.

Section 2.7 Advertising of Listing Filed with the Service: A listing shall not be advertised by any Participant, other than the listing broker without the prior consent of the listing broker.

Section 2.8 Reporting Cancellation of Pending Sale: The listing broker shall report **within 24 hours** to the Multiple Listing Service the cancellation of any pending sale and the listing shall be reinstated immediately.

Section 2.9 Disclosing the Existence of Offers: Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

Section 2.10 Availability of Listed Property: Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

REFUSAL TO SELL

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

PROHIBITIONS

Section 4. Information for Participants Only: Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

Section 4.1 “For Sale” Signs: Only the “For Sale” signs of the listing broker may be placed on a property. The listing brokers sign may not be placed or displayed in an MLS

photo of the listed property in such a manner that it is the primary focus and appears to be an advertisement of the listing brokers company. Failure to comply will result in a \$500.00 fine for the violation plus, deletion of the listing by the service if not corrected within 72 hours of notification.

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

Section 4.3 Solicitation of Listing Filed with the Service: Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTORS[®] Code of Ethics, its Standards of Practice and its Case Interpretations.

Section 4.4 Contact Information: Contact information may only be included in agent remarks. Contact information shall not be included in public remarks, instructions, photos or any other area not specifically designated for contact information.

DIVISION OF COMMISSIONS

Section 5. Compensation Specified on Each Listing: The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other Multiple Listing Service Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker’s performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker’s obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the

exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through the 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.

Note 1: In filing a property with the Multiple Listing Service of a Board of Realtors[®], the Participant of the Service is making blanket unilateral offers of compensation to the other MLS Participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other MLS Participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. *

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

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

The Board Multiple Listing Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the 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.

*The compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by a Board 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 his producing an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. by showing a percentage of the gross selling price

2. by showing a definite dollar amount.

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

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

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

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

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

Section 5.0.1 Multiple listing services that permit, but do not require, participants to disclose potential short sales should adopt the following rule:

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

Section 5.1 Participant as Principal: If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any interest in 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. If listing agent has any principal interest in property ownership of a listing, this affiliation must be indicated in the owner field and in agent remarks of the Multiple Listing Service.

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

Section 5.3 Dual or Variable Rate Commission Arrangements: The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/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.

SERVICE CHARGES

Section 6. Service Fees and Charges: The following service charges for operation of the Multiple Listing Service are in effect to defray the cost of the Service and are subject to change from time to time in the manner prescribed:

a). Participant Application Fee: A participant applying for membership in the Service shall pay an application fee of \$350.00 with such fee to accompany the application.

b). Licensee application fee: A licensee applying for membership with the Service is subject to a \$50.00 application fee.

c). Branch Office Fee: A broker opening a Branch Office must register his branch office with the service and pay the initial participation fee of \$350.00. A branch office is considered a place where business is conducted.

d). Recurring Participation Fee: A Recurring Participation Fee may be charged as an annual participation fee. This fee is to be set by the MLS Committee and shall be based upon the financial need of the Service. The MLS Committee may decide to waive the fee if this is judged suitable upon reviewing the MLS financial condition and anticipating the budget needs.

e). Transfer Fee: When a licensee transfers his/her license from one participant to another, a \$75.00 transfer fee is payable to the Service to complete the transfer.

f). Waiver: Waivers will be granted if the reason states that the salesperson does not list or sell the type of properties which are required to be filed with the MLS or is engaged in another specialty of the real estate business and does not use the MLS in any way. Those who violate the Waiver status will be liable for MLS dues since inception of the Participants membership. Additionally, the waiver will be suspended permanently and the salesperson will be put on active status. The Participant (Principal Broker) will be billed for any past dues. The Committee will review waivers annually.

g). Subscription Fees: A monthly Subscription Fee for each Broker/Agent member shall be \$21.00 per month, payable in advance per calendar quarter. Quarterly advance payment per Broker/Agent shall be \$63.00. For this fee each Broker/Agent member shall have access to MLS web-based service. If a current listings (book) is desired the monthly subscription fee per Broker/agent will be \$21.00 plus the book fee which will be based on a 3 month average of SEI book invoices, payable in advance per calendar quarter. Each **Participant/DR** shall be responsible for the Subscription Fee for each individual, employed by or affiliated as an independent contractor (including licensed or certified appraisers) with the Participant/DR, who has access to and who utilizes the Service.

The Multiple Listing Service should pay its own way, and allow for a reasonable operating reserve, but it is merely another service of the Board and not the principal activity or reason for the Board's existence. The MLS is not properly a Board profit center.

COMPLIANCE WITH RULES

Section 7 Compliance with Rules: By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand

- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration.
- d. appropriate, reasonable fine not to exceed \$15,000.
- e. Probation for a stated period of time not less than thirty (30) days nor more than one (1) year.
- f. Suspension of MLS rights, privileges and services for not less than thirty (30) days nor more than one (1) year.
- g. Termination of MLS rights, privileges and services with no right to reapply for a specified period not to exceed three (3) years.

Section 7.0.1 Compliance with Rules: The following action may be taken for noncompliance with the rules:

- a). Quarterly service charges or fees are due **in the Multiple Listing Service Office** by the first day of the first month of the quarter (i.e., January, April, July and October). For failure to pay any service charge or fee by **the last business day before** the 10th of the first month of the quarter, a \$25.00 penalty will be imposed. If the delinquent office does not pay said charges or fees in addition to the \$25.00 penalty, within one (1) month of the date due, and provided that at least ten (10) days notice has been given, the Service shall be suspended until service charges or fees are paid in full.
- b). In the event a delinquent office fails to pay service charges or fees for three months, that office will be terminated from the MLS. If an office has been terminated for failure to pay service charges or fees for three months, the office must re-apply for membership and charges will be based on current admission fees.
- c). For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

Section 7.1 Applicability of Rules to Users and/or Subscribers: Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any user or subscriber to abide by the Rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

MEETINGS

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

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

Section 8.2 Conduct of the Meetings: The Chairperson, or Vice Chairperson, shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

ENFORCEMENT OF RULES OR DISPUTES

Section 9. Consideration of Alleged Violations: The Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations.

Section 9.1 Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged unethical conduct or a request for arbitration, it may be administratively considered and determined by the MLS Committee and if a violation is determined, the MLS Committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board of REALTORS within 20 days following receipt of the Committee's decision. (Amended 11/96).

If, rather than conducting an administrative review, the MLS 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 Board of REALTORS within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board, if the charge alleges a refusal to

arbitrate, such charge shall be referred directly to the Board of Directors of the Board of Realtors®.

Section 9.2 Complaints of Unethical Conduct: All other complaints of unethical conduct shall be referred by the Committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's Bylaws.

CONFIDENTIALITY OF MLS INFORMATION

Section 10. Confidentiality of MLS Information: Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the

Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

Section 10.1 MLS Not Responsible for Accuracy of Information: The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

Section 10.2 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, re-transmitted or provided in any manner to any unauthorized individual, office or firm, except as otherwise provided in these Rules and Regulations.

OWNERSHIP OF MLS COMPILATIONS* AND COPYRIGHTS

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

Section 11.1 All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Gillespie County Board of REALTORS® Inc., and in the copyrights therein, shall at all times remain vested in the Gillespie County Board of REALTORS® Inc.

Section 11.2 Each Participant shall be entitled to lease from the Gillespie County Board of REALTORS® Inc., a number of copies of each MLS Compilation* sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation.. The Participant shall pay, for each such copy, the rental fee set by the Board.**

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

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

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

USE OF COPYRIGHTED MLS COMPILATIONS

Section 12. Distribution: Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Board of REALTORS[®], and shall not distribute any such copies to persons other than subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by 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 by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

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

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

Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable* number of single copies of

property listing data contained in the MLS Compilation which relate to any properties in which prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective

purchaser has expressed interest, or in which the Participant or affiliated licensees are seeking to promote interest, does not appear on such reproduction.

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, "sold" information, "comparables", or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Multiple Listing Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

*It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest.

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

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

Section 13. Limitations on Use of MLS Information: Use of information from the MLS compilation of current listing information, from the Board's Statistical Report, or from any sold or comparable report of the Board or MLS for public mass-media advertising by an MLS Participant or in other public representations may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the 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 Gillespie County Board of REALTORS® Inc., or its Multiple Listing Service for the period (*date*) through (*date*).

CHANGES IN RULES AND REGULATIONS

Section 14. Changes in Rules and Regulations: Amendments to the Rules and Regulations of the Service shall be by a majority vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Board of REALTORS®.

Section 15. Arbitration of Disputes: By becoming and remaining a participant, each participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS participants in different firms arising out of their relationships as MLS participants, subject to the following qualifications.

- a. If all disputants are members of the same association of REALTORS® or have their principal place of business within the same association’s territorial jurisdiction, they shall arbitrate pursuant to the procedures of that association of REALTORS®.
- b. If the disputants are members of different associations of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the Texas Association of REALTORS®.

Interboard Arbitration Procedures: Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the interboard arbitration procedures in the *Code of Ethics and Arbitration Manual* of the National Association of REALTORS®. Nothing herein shall preclude participants from agreeing to arbitrate the dispute before a particular association of REALTORS®

Section 16: Standards of Conduct for MLS Participants

Section 16.1 _MLS participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS participants have with clients.

Section 16.2 Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

Section 16.3 MLS participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.

Section 16.4 MLS participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS participant, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right-to-sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS participant may contact the owner to secure such information and may discuss the terms upon which the MLS participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

Section 16.5 MLS participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

Section 16.6 MLS participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing broker's clients, unless such use is authorized by listing brokers.

Section 16.7 The fact that an agreement has been entered into with an MLS participant shall not preclude or inhibit any other MLS participant from entering into a similar agreement after the expiration of the prior agreement.

Section 16.8 The fact that a prospect has retained an MLS participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS participants from seeking such prospect's future business.

Section 16.9 MLS participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.

Section 16.10 When MLS participants are contacted by the client of another MLS participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

Section 16.11 In cooperative transactions, MLS participants shall compensate cooperating MLS participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS participants without the prior express knowledge and consent of the cooperating broker.

Section 16.12 MLS participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed general for purposes of this rule.

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another MLS participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, for sale or for rent signs, or other sources of information intended to foster cooperation with MLS participants.

Section 16.13 MLS participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service.

Section 16.14 MLS participants, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease.

Section 16.15 On unlisted property, MLS participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement.

MLS participants shall make any request for anticipated compensation from the seller/landlord at first contact.

Section 16.16 MLS participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyer/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement.

Section 16.17 MLS participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other broker's exclusive agreements. However, information received through a multiple listing service or any other offer of cooperation may not be used to target clients of other MLS participants to whom such offers to provide services may be made.

Section 16.18 MLS participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

Section 16.19 All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospect's exclusive representatives or at the direction of prospects.

Section 16.20 Participants, users and subscribers, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude assignability of exclusive agreements.

Section 16.21 These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS participants involving commission, fees, compensation or other forms of payment or expenses,

Section 16.22 MLS participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses or their business practices.

Section 16.23 MLS participants' firm websites shall disclose the firm's name and state(s) or licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner.

Section 16.24 MLS participants shall present a true picture in their advertising and representations to the public, including the URLs and domain names they use, and participants may not:

1. engage in deceptive or unauthorized framing of real estate brokerage websites;
2. manipulate (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
3. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic, or to otherwise mislead consumers.

Section 17 Orientation Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and operation of the MLS within thirty (30) days after access has been provided.

Internet Data Exchange (“IDX”)

Section 18 – IDX Defined: IDX affords MLS Participants the option of authorizing display of their active listings on other Participants’ Internet web sites.

Section 18.1 – Authorization: Participants’ consent for display of their active 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 or frame the aggregated MLS data of other Participants.

Section 18.2 – Participation: Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. This requirement can be met by maintaining an office or Internet presence from which Participants are available to represent real estate sellers or buyers (or both).

Section 18.2.1 – Participants must notify the MLS of their intention to establish an IDX site and make their IDX site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

Section 18.2.2 – Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent “scraping” or other unauthorized accessing, reproduction or use of the MLS database.

Section 18.2.3 – Listings or property addresses of sellers who have directed their

listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

Section 18.2.4 – Participants may select the listings they choose to display on their IDX sites 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) or cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant.

Section 18.2.5 – Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

Section 18.2.6 – Except as provided elsewhere in this policy or elsewhere in an MLS’s rules and regulations, an IDX site or participant operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

Section 18.2.7 – When displaying listing content, a Participant’s or User’s IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

Section 18.3 – Display: Display of listing information pursuant to IDX is subject to the following rules:

Section 18.3.1 – Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited.

Section 18.3.3 – Participants shall not modify or manipulate information relating to other Participants’ listings. (This is not a limitation on site design but refers to changes to actual listing data.)

Section 18.3.4 – All listings displayed pursuant to IDX shall identify the listing firm.

Section 18.3.5 – All listings displayed pursuant to IDX shall identify the listing agent. **Section 18.3.6** – Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant’s consent and control and the requirements of state law and/or regulation.

Section 18.3.8 – All listings displayed pursuant to IDX shall show the MLS as the source of the information.

Section 18.3.10 – Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing.

Section 18.3.11 – The data consumers can retrieve or download in response to an inquiry shall be limited to 5 listings per search.

Section 18.3.12 – The right to display other Participants’ listings pursuant to IDX shall be limited to a Participant’s office(s) holding participatory rights in this MLS.

Section 18.3.13 – Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLS’s.

Section 18.4 – Service Fees and Charges: Service fees and charges for participation in IDX shall be as established annually by the MLS Committee. A Participant may be charged for the cost of adding or enhancing the MLS’s “downloading” capacity to Participants who will download listing information. Assessment of such costs should reasonably relate to the actual costs incurred by the MLS

Model Virtual Office Website (VOW) Rules for MLS

Section 19.1 (a): A Virtual Office Website (“VOW”) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant’s oversight, supervision, and accountability.

(b) As used in Section 19 of these Rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees – except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and

accountability”. References to “VOW” and “VOWs” include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner (“AVP”) on behalf of a Participant.

(c) “Affiliated VOW Partner” (“AVP”) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

(d) As used in Section 19 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

Section 19.2 (a): The right of a Participant’s VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLS may operate a master website with links to the VOWs of the other offices.

(b) Subject to the provisions of the VOW Policy and these Rules, a Participant’s VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange (“IDX”).

(c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant’s VOW.

Section 19.3 (a): Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

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

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

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

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

(c) If the MLS has reason to believe that a Participant’s VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or

violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

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

i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

ii. That all information obtained by the Registrant from the VOW is intended only for the Registrant’s personal, non-commercial use;

iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;

iv. That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant’s consideration of the purchase or sale of an individual property;

v. That the Registrant acknowledges the MLS’s ownership of, and the validity of the MLS’s copyright in, the MLS database.

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

(f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants’ listings by

the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

Section 19.4: A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

Section 19.5: A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

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

Section 19.6 (a): A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

Seller Opt-Out Form

1. Please check either Option a or Option b

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

OR

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

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

initials of seller

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

Section 19.7:

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

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A

Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

Section 19.8: A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 19.9: A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

Section 19.10: Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

Section 19.11: A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

Section 19.12: A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

Section 19.13: A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the

VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

Section 19.14: A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant.

Section 19.15: A Participant's VOW may not make available for search by, or display to, Registrants any of the following information:

- a. Expired or 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 19.16: A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS Listing Information with additional information not otherwise prohibited by these Rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

Section 19.17: A Participant shall cause to be placed on his or her VOW notice indicating that the MLS Listing Information displayed on the VOW is deemed reliable but is not guaranteed accurate by the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

Section 19.19: A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 current listings and not more than 100 sold listings in response to any inquiry.

Section 19.20: A Participant shall require that Registrants' passwords be reconfirmed or changed every 180 days.

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

Section 19.22: A Participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

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

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