

# Rules and Regulations—Multiple Listing Service of the Houston Realtors® Information Service

## LISTING PROCEDURES

**1. Listings and Types of Properties:** Listings of residential properties of the following types, which are listed subject to a real estate broker's license, located within the territorial jurisdiction of the HOUSTON ASSOCIATION OF REALTORS® taken by Participants (also referred to as Participant Subscribers) must be broker-loaded or filed (delivered or postmarked) with the Multiple Listing Service (Multiple also referred to as MLS or HARMLS) office within five (5) days after the commencement of the term of the listing contract and all necessary signatures of seller(s) or lessor(s) have been obtained. The list date shall be the beginning date of the term of the listing agreement:

- (a) Class 1 - Single-family detached residence on property. (Manufactured homes must include the sale of the land in order to be listed as a Single-family detached residence. New construction listings must have a building permit or proposed building plan issued on the property before it can be listed as Single-family detached)
- (b) Class 2 - Townhouse-Condominium. (Properties that are attached to another dwelling should be classified as Townhouse-Condominium)
- (c) Class 3 - Residential lots. (Residential lot listings should be vacant sites without an existing dwelling. Exceptions may include sites having an existing obsolete dwelling that makes no additional contribution to the total market value of the property and likely will be razed by a buyer. Sites that include a structure which has been condemned by a government entity shall be listed in Class 3, Lots)
- (d) Class 4 - Multi-family properties of not more than 12 units. (Apartment complexes with more than 12 units are prohibited. Multi-family listings must include the sale of the land and must be conveyed through a single deed in order to be listed as Multi-family)
- (e) Class 5 - Homes and acreage residential in nature.
- (f) Class 6 - High Rise Condominiums. (Condominiums located in a building with 4 or more stories)
- (g) Class 7 - Residential leases.

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 that fails to adequately protect the interest 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, lessee or lessor).

The Multiple Listing Service shall accept exclusive right to sell or lease 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.

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

3. The different types of listing agreements include:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (d) net

The Service may not accept net listings because they are deemed unethical and, in most states, illegal. 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.

The exclusive right to sell or lease listing is the conventional form of listing submitted to the Multiple Listing Service in that the seller or lessor authorizes the listing broker to cooperate with and to compensate other brokers.

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

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

**1.1 Listings Subject to Rules of Multiple:** Any listing to be entered into Multiple is subject to the Rules and Regulations of Multiple upon signature of the seller(s) or lessor(s) and listing Participant.

**1.2 Listing Details:** Any listing including any addendum and profile sheet, when filed with Multiple by the Participant, shall be complete in every detail and contain the entire agreement between the parties.

- (a) Directions** – The Directions field must contain driving directions that any reasonable, prudent person can use to locate the listed property. If directions are to a model home or sales office, the Participant must specify this information in the directions field. “Call Agent” and “See Key Map” shall not be entered in the directions field. Contact information such as names, phone numbers, email addresses, web site addresses shall not be entered in the Directions field. The Directions field is intended for property directions only.
- (b) Physical Property Description - Public** – The Physical Property Description - Public field is intended to describe the physical attributes of the listed property only. Remarks related to the transaction such as available financing, cash back at closing, bonuses, upgrade incentives, upgrade allowances, repair and decorating allowances, etc. shall not be entered in the Physical Property Description - Public field. Confidential information such as showing instructions or security codes and contact information such as names, phone numbers, email addresses, web site addresses, service provider information, the words FSBO or For Sale by Owner shall not be entered in the Physical Property Description - Public field.
- (c) Agent Remarks - Private** – The Agent Remarks - Private field shall only be displayed to other MLS subscribers and shall not be displayed to customers, clients or consumers. It shall be used to convey additional information related to the listed property or information related to the transaction of the listed property such as available financing, cash back at closing, bonuses, upgrade incentives, upgrade allowances, repair allowances, builder options, etc. Comments related to variable commission offers based on conditions other than the cooperating agent’s performance as the procuring cause of the sale or comments requiring the use of a particular service provider or financial institution as a condition of sale shall not be entered. Comments related to brokerage business models or advertisements intended to recruit agents shall not be entered.

**1.3 Exempted Listings:** If the seller or lessor, unsolicited, refuses to permit the listing to be disseminated by Multiple, the listing Participant may then take the listing (*office exclusive*), but it shall not be filed with Multiple. If requested by the Service, the listing Participant shall provide the Service a certification signed by the seller or lessor that he does not desire the listing to be filed with Multiple.

**1.4 Change of Price/Status of Listing:** Any change in listed price or other change in a listing contract shall be made only when authorized in writing by the seller or lessor and shall be broker-loaded or filed with Multiple within five (5) days after notice is received by the listing participant; provided, however, the listed price may only be changed while the listing is in Active status. Each change in price must be authorized in writing by the seller and specify the date of the change and the new list price. Once an offer has been accepted the listed price should not be changed unless the contract has been terminated and the listing status is changed back to Active.

**1.5 Withdrawal, Termination or Expiration:** Listings may be terminated or withdrawn from Multiple by the listing participant before expiration date of the listing contract by broker-load or by submitting to Multiple a copy of the agreement between the seller or lessor and participant which authorizes such termination or withdrawal. A listing cannot be withdrawn, terminated or reported as expired to avoid reporting sales price and closing information.

Sellers or lessors 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) or lessor(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 or lessor.

**1.6 Contingent Listings Not Accepted:** Listings which contain contingencies which render the listing unenforceable until the occurrences of a subsequent event shall not be accepted by Multiple. Examples of such contingencies are that the listing is contingent on owner(s) purchasing another property or contingent on owner(s) obtaining new employment.

**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.

**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 Multiple.

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

**1.10 Expiration, Extension, and Renewal of Listings:** Any listing broker-loaded or filed with Multiple automatically expires on the date specified in the listing unless extended or renewed by the listing participants through broker-loading or filing with Multiple prior to expiration. Any extension or renewal must be signed by seller or lessor. If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured and broker-loaded or filing with Multiple. It is then published as a new listing.

**1.11 Listing Termination Date:** Listings entered into Multiple shall bear a definite and final termination date as negotiated between the participant and seller or lessor.

**1.12 Jurisdiction:** Only listings of the designated types of property located within the jurisdiction of the Association of REALTORS® are required to be entered into Multiple. Listings of property located outside the Association's jurisdiction will be accepted if submitted voluntarily by a participant, but cannot be required by Multiple.

**1.13 Listings of Suspended Participants:** When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association By-Laws, 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 his clients.

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

**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.

**1.16 Transitional Property:** Transitional property may be listed in Multiple. The same property may also be listed in the Commercial Information Exchange if its commercial value is to be specifically stated or promoted. Properties on which a dwelling is situated wherein a business is operated shall not be accepted in Multiple with the exception of property that is currently occupied as a residence or property that could be currently occupied as a residence.

**1.17 Additional Information:** Additional information concerning listed property, such as new loan commitment, availability of second mortgage, loan information, etc., must be broker-loaded or filed with Multiple within five (5) days of receipt by Participant of such written authorization by the seller or lessor. A Participant may only include in the message section of the MLS computer system information relating to a residential property listed by the Participant.

**1.18 Only One Filing of Listing:** No property may be listed in Multiple by more than one Participant, or in more than one class, at the same time with the exception of properties that are for sale and also for lease.

**1.19 Owner's Signature:** Participants shall not sign seller's or lessor's name to a listing contract or any other Multiple form and the signature of all sellers or lessors is required for a listing or any other form to be broker-loaded or submitted to Multiple.

**1.20 Broker-Load:** Participants who receive computer services from the vendor have the option of adding and maintaining their own office listing and comparable information. Listing Participants shall verify the accuracy of information after loading.

**1.21 Multiple Load:** An administrative fee will be charged for each new listing that must be added and maintained by Multiple staff. This fee must be submitted in advance of processing along with the fully executed listing agreement, profile sheet and status form. The administrative fee shall be charged as per the schedule of fees and charges.

**1.22 False or Misleading:** Submission of false or misleading information to MLS shall be a violation of these Rules and shall result in a fine as provided herein.

**1.23 Major Areas:** A listed property may not be entered in more than one major area.

**1.24 Auto-population of Tax IDs:** All properties listed for sale or for lease, which have a tax ID in the MLS system, must be auto-populated at the time a listing is entered into the MLS system.

**1.25 Submission of Media (Images, Virtual Tours, Hyperlinks, and Documents):** All media files and hyperlinks submitted to multiple shall contain or link to information pertinent to the listed property only and shall comply with the requirements below. Media previously submitted by a Participant may not be used by other Participants on subsequent listings.

**1.25.1 – Digital Images (Pictures):** Digital images and photo description text shall not contain legible contact information such as names, phone numbers, email addresses or web site addresses, including the use of embedded, overlaid, or digitally stamped information. Remarks related to the transaction such as available financing, cash back at closing, bonuses, upgrade incentives, upgrade allowances, repair and decorating allowances, etc. shall not be entered in the photo description. Digital images of similar or like construction properties are prohibited. Only images of the listed property or its grounds are permitted.

(a) Single Family, Townhouse-Condominium, High Rise, Multi-Family and Rentals

(i) At least six (6) unique digital images of each property or its grounds listed in a property class defined in 1.25.1 (a) are required and shall be participant loaded into multiple within 10 days of the list date unless written documentation requesting a photo not be submitted is signed by the Seller and submitted to multiple. An exception requiring only three (3) unique digital images is allowed if the listing is “To Be Built/Under Construction” and written documentation requesting three (3) photos be submitted is signed by the Seller and submitted to multiple. At least one (1) of the required digital images must be an actual photo of the listed property. Digital images such as floor plans, artist renderings or elevation drawings that are not actual photographs of the listed property shall not count as the one required photo.

(ii) In addition to the one (1) required photo defined above, subscribers may load up to fifteen (15) additional digital images which may consist of photos, floor plans, artist renderings or elevation drawings of the listed property or its grounds.

(b) Lots, Acreage, Timeshare and Fractional Ownership

(i) At least one (1) actual photo of each property listed in property classes defined in 1.25.1 (b) is required and shall be subscriber loaded into multiple within 10 days of the list date unless written documentation requesting a photo not be submitted is signed by the Seller and submitted to multiple. Digital images such as floor plans, artist renderings or elevation drawings that are not actual photographs of the listed property shall not count as a required photo.

(ii) In addition to the one (1) required photo defined above, subscribers may load up to fifteen (15) additional digital images which may consist of photos, floor plans, artist renderings or elevation drawings of the listed property.

**1.25.2 – Virtual Tour Hyperlinks (URL):** Virtual tours submitted to multiple shall comply with the following guidelines:

- (a) The primary focus of the tour shall be of the subject property.
- (b) Hyperlinks on the virtual tour shall link only to web pages that provide description of the listed property and shall not contain any contact information such as names, phone numbers, email addresses, web site addresses or promotion for a closing service provider or any other peripheral service, with the exception of the listing firm's name.
- (c) The tour must be hosted on an Internet accessible server from which a MLS participant can retrieve the tour by selecting that tour's hyperlink.
- (d) The tour or any accompanied audio descriptions shall not include any contact information such as names, phone numbers, email addresses, web site addresses, agent photographs, logos or promotion for a closing service provider or any other peripheral service, with the exception of the listing firm's name.
- (e) By submitting the tour, Participants are representing to multiple that the Participant has permission to allow the display of the tour in multiple and that multiple in turn has permission to redistribute the tour hyperlink as a part of the MLS compilation.

**1.25.3 – Web Hyperlinks (URL):** URL's submitted to multiple and designated as a Web hyperlink shall only link to web pages that are pertinent to the listed property or to the Participant's or Subscriber's website. Web hyperlinks are only accessible to MLS subscribers and are not included in buyer reports or public display web sites.

**1.25.4 – Digital Documents (PDF and TXT files):** Digital documents submitted to multiple shall comply with the following guidelines:

- (a) Subscribers may submit to multiple up to three (3) PDF formatted documents that are accessible only to MLS subscribers.
- (b) Subscribers may submit to multiple up to three (3) PDF formatted documents designated as a "Public Display PDF" which may be included in buyer reports and displayed on publicly accessible web sites. PDF's designated as a "Public Display PDF" shall comply with the following requirements:
  - (i) The primary focus of the PDF document shall be of the subject property.
  - (ii) The PDF document shall not include any contact information such as names, phone numbers, email addresses, web site addresses, agent photographs, logos or promotion for a closing service provider or any other peripheral service, with the exception of the listing firm's name.

(iii) Hyperlinks that are embedded in the PDF shall link only to web pages that provide description of the listed property and shall not contain any contact information such as names, phone numbers, email addresses, web site addresses or promotion for a closing service provider or any other peripheral service, with the exception of the listing firm's name.

(iv) By submitting the PDF document, Participants are representing to multiple that the Participant has permission to allow the display of the PDF in multiple and that multiple in turn has permission to redistribute the PDF document as a part of the MLS compilation.

(v) Seller's Disclosure Notices and other documents considered confidential shall not be designated as a "Public Display PDF".

(c) Subscribers may submit to multiple one (1) TXT formatted document that is accessible only to MLS subscribers.

**1.26 Submission of Open Houses:** Open houses submitted to multiple must designate a specific date and time the property will be available for viewing and must allow MLS Participants and Participant Subscribers to preview the inside of the property and where designated as a public open house must allow public access. Properties that do not allow access to the inside of the property shall not be submitted to multiple as an open house. Open houses designated as public open house shall not include in the comments section any remarks related to the transaction such as available financing, cash back at closing, bonuses, upgrade incentives, upgrade allowances, repair and decorating allowances, contact information such as names, phone numbers, email addresses, web site addresses, or promotion for a closing service provider or any other peripheral service.

**1.27 Potential Short Sale Listings:** In instances where the listing broker becomes aware that the list price may not be sufficient to permit seller to fully satisfy all encumbrances and pay seller's closing costs, including the listing broker's compensation (a "Short Sale Circumstance"), the listing broker must clearly and promptly disclose the Short Sale Circumstance to all cooperating brokers and, when and if appropriate, disclose that the sale of the listed property may be conditioned upon the approval of a court, a lender, or other third party. Such disclosures must occur at the time of MLS input, if known, or within one (1) business day upon receipt of such knowledge. Such disclosure should be made in the MLS by selecting "Short Sale" in the "Disclosures" field and must also be included in the Agent Remarks. The following disclosure must be entered at the time of input, if known, or within one (1) business day upon receipt of knowledge.

"List price may not be sufficient to cover all encumbrances, closing costs, or other seller charges and sale of Property may be conditioned upon approval of third parties."

**1.28 Disclosure of Loss Mitigation Fees:** In instances where the listing broker or seller engages the services of a loss mitigation firm that requires the buyer to remit fees at or before closing, the listing broker must clearly and promptly disclose this circumstance and the amount to the buyer and to all cooperating Participants. Such disclosures must occur at the time of MLS input, if known, or within one (1) business day upon receipt of such knowledge. Such disclosure should be made in the MLS by

selecting "Loss Mitigation=Y" and providing the amount of fees due buyer in the appropriate MLS field. The following disclosure must also be entered in the "Agent Remarks" field at the time of input, if known, or within one (1) business day upon receipt of knowledge.

"Buyer will be responsible for paying loss mitigation fees in the amount of [enter \$ amount or % of sales price here]"

**1.29 Auction Listings:** Listings entered into the MLS system which are scheduled for auction shall be clearly indicated as an Auction Listing in the agent remarks. The listing Participant must further indicate in the agent remarks section: (1) the date, time and place of auction, (2) the procedures by which Participants or Subscribers shall register their representation of a potential bidder at the auction, (3) the time and manner in which potential bidders may arrange to inspect the listed property, (4) if the seller will accept a purchase offer prior to the scheduled auction.

**1.30 Online Bidding Process:** Listings entered into the MLS system which require purchase offers to be submitted through an online bidding process shall clearly indicate in agent remarks: (1) the URL for the bidding website, (2) the date and time bids will no longer be accepted, (3) the procedures by which Participants or Subscribers shall register their representation of a potential bidder on such site.

## **SELLING PROCEDURE**

**2. Appointments for Showing:** Appointments for showings with the seller or lessor for the purchase or lease of listed property filed with Multiple shall be conducted through the listing Participant except where the listing Participant gives the cooperating broker specific authority to contact the owner directly for showing; provided, however, the cooperating broker may not engage in negotiations, directly or indirectly, with the seller or lessor.

**2.1 Presentation/Delivery of Offers:** Listing Participant must make arrangements to present an offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. The cooperating broker may deliver an offer to the seller or lessor directly if the listing Participant consents to the delivery, a copy of the offer is sent to the listing Participant (unless the seller is a governmental agency using a sealed bid process does not allow a copy to be sent), and the cooperating broker does not engage in negotiations, directly or indirectly, with the seller or lessor.

**2.2 Submission of Subsequent Written Offers:** The listing broker shall submit to the seller or lessor all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller or lessor and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the owner 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.

**2.3 Right of Cooperating Participant 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 written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

**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.

**2.5 Reporting Sales to Multiple:** Sales pending (including Option Pending and Pending Continue to Show) shall be broker-loaded or filed with Multiple within five (5) days using the Status Change Form of Multiple and showing the estimated closing/funding date and selling broker code but the sales price shall not be shown. Listings that are lender owned shall be reported as sales pending within five (5) days of acceptance of a verbal offer in cases where the lender is no longer accepting additional offers. Notice of lease closed shall be broker-loaded or filed with Multiple within five (5) days of lease execution (closed) using the Status Change Form of Multiple and showing the lease price. Sales-closed shall be broker-loaded or filed with Multiple within five (5) days of actual closing/funding using the Status Change Form of Multiple showing the actual closing/funding date, selling broker code and selling price and other sold information required on the MLS profile sheets. In the event the actual closing/funding date will occur after the estimated closing/funding date, the Participant shall revise the estimated closing/funding date, within five (5) days, by broker-load or use the Status Change Form of Multiple. Notices shall be filed by listing Participant.

**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.

**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.

**2.7 Advertising of Listing Filed with Multiple:** Advertising of any listing by a Participant, other than the listing Participant, is permissible only with the consent of the listing Participant.

**2.8 Reporting Cancellation of Pending Sale:** Listing Participant shall broker-load or file with Multiple within five (5) days the cancellation of any pending sale and the listing shall be reinstated immediately.

**2.9 Leaving of Business Cards:** A salesperson showing a property shall not leave a business card unless requested by the seller or lessor or listing Participant.

**2.10 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, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

**2.11 Availability of Listed Property:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property. If the property is in the MLS and becomes unavailable for showing for 7 days or longer, it must be indicated in the database under the "Showing Instructions" field as "Temporarily No Showings". When the property is available for showing once more, the "Showing Instructions" must be updated accordingly.

## **REFUSAL TO SELL**

**3. Refusal to Sell or Lease:** If the seller or lessor of any listed property filed with Multiple refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted to Multiple and to all Participants.

## **PROHIBITIONS**

**4. Information For Participants Only:** Any listing filed with Multiple shall not be made available to any broker or firm not a member of the Multiple without the prior consent of the listing Participant.

**4.1 "For Sale" or "For Lease" Signs:** Only the "For Sale" or "For Lease" signs of the listing broker may be placed on a property.

**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.

**4.3 Solicitation of Listing Filed With Multiple:** Participants shall not solicit a listing on property filed with Multiple unless such solicitation is consistent with Section 16 of these rules.

**NOTE 1:** This Section is to be construed in a manner consistent with Section 16 of these rules and particularly Standards of Conduct 16.4. This Section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller or lessor could receive hundreds of calls, communications and visits from brokers and salespersons who have been made

aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

This Section is also intended to encourage brokers to participate in the Service by assuring them that other Participants will not attempt to persuade the seller or lessor to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this Section, listing brokers would be most reluctant to generally disclose the identity of the seller or lessor or the availability of the property to other brokers.

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

## **DIVISION OF COMMISSIONS**

**5. Cooperative 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 or lease 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). 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<sup>®</sup>, the Participant of the Service is making blanket unilateral offers 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 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. 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 shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listings published by the MLS provided the listing broker informs the other broker in writing in advance 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 flat dollar amount.

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

NOTE 2: The listing broker may, from time to time, adjust the compensation offered to other Multiple Listing Service Participants for their services or the compensation offered to buyer agents 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 Nonparticipants. This should remain solely the responsibility of the listing broker.

NOTE 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval; and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they 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 may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers.

**5.0.1 Disclosure of Potential Short Sale:** Participants must disclose potential short sales (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)\_when reasonably known to the listing participants.

**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.

**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 to the listing broker prior to the time an offer to purchase is submitted to the listing broker.

**5.3 Dual or variable rate commission arrangements:** The existence of a dual or variable rate commission arrangement (e.g., 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 inquires 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 must disclose such information to their client before the client makes an offer to purchase or lease.

## SERVICE FEES

**6. Service Fees:** Fees will be set by the Multiple Advisory Group with approval of the Board of Directors as from time to time amended. A schedule of fees and charges currently in effect is attached hereto. The Participant for each firm is responsible for assuring all real estate licensees or licensed or certified appraisers affiliated with Participant that use or access the MLS Service in any manner subscribe individually.

The following type service fees for operation of Multiple will be charged the Participants to defray costs of the service to Participants:

- (a) Initial Application Fee.
- (b) Monthly Participation Fee.
- (c) Reinstatement Fee.
- (d) Uncollected Funds Fee.
- (e) Transfer Fee.

The Monthly participation fee of each Participant Subscriber shall be the amount set by the Board of Directors plus an additional amount equal to such amount of the monthly participant fee times the number of real estate brokers, salespersons, and licensed or certified appraisers who are employed by or affiliated as independent contractors or who are otherwise directly or indirectly licensed with such MLS Participant Subscriber belonging to an office located in the Jurisdiction of MLS, who are not MLS subscribers. In calculating MLS Participation Fees payable to the MLS by a Participant Subscriber, a MLS Participant Subscriber may not be assessed any service fees for access to the MLS with respect to any individual who is engaged solely and exclusively in a specialty of the real estate business separate and apart from listing, selling, leasing or appraising the type of properties which are required to be filed with the MLS, provided the MLS Participant Subscriber notifies the MLS in writing of the identity of any such individual and the specialty engaged in by the individual. An individual shall be deemed to be licensed with a Participant Subscriber if the license of the individual is held by the Participant Subscriber or by any broker who is licensed or affiliated with the Participant Subscriber.

**6.1 Public and Private IDs:** Every MLS Participant and every real estate licensee and licensed or certified appraiser who is affiliated with such MLS Participant and who has access to and use of the MLS through the MLS Participant shall be required to obtain a public and private ID issued by MLS. Each private ID shall not be loaned, shared, disclosed, or allowed to come into the possession of any other person, except that the Participant, manager and/or administrator in that person's real estate company may have access to such private ID, and such persons shall be required to keep the private ID confidential. The public and private ID shall only be used for purposes permitted by the MLS rules and for no other purposes whatsoever. In the event that any disclosure of Public and Private ID results in access to the MLS by an unauthorized third party, regardless if such disclosure is intentional, negligent, or inadvertent, the ID holder shall be liable to MLS, at MLS' option, for liquidated damages as follows; first offense: \$500.00, second offense: \$1,000, and third offense: revocation of ID.

**6.2 Lockbox Key Rule (Supra Key):** Each MLS Participant who is a REALTOR member (“REALTOR Participant”) and real estate licensee and licensed or certified appraiser who is affiliated with such REALTOR Participant who has an active Public and Private ID shall be eligible to obtain a Supra Key subject to their execution of a lease agreement. Each licensed inspector and/or Texas Registered Professional Engineer who is a member of the Houston Association of Realtors (HAR) shall be eligible to obtain a Supra DisplayKEY, subject to the MLS Rules and Regulations and execution of a key lease agreement. Each Supra Key and PIN Code shall not be loaned, shared, or allowed to come into the possession of anyone other than key holder except as provided elsewhere in this statement of policy. Each REALTOR Participant may lease additional Supra Keys to be issued on a temporary basis to other key holders in the same office in the event their Supra Key becomes non-functional outside normal business hours or under circumstances where a replacement Supra Key is not reasonably available from HAR. When a Supra Key is issued on a temporary basis, it shall be the responsibility of the REALTOR Participant to advise HAR in writing that the Supra Key has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the REALTOR Participant to advise HAR in writing within forty-eight (48) hours after possession of the previously issued Supra Key has been reassumed. A Supra key holder who violates this rule shall be subject to fines and punishment as follows: first offense - \$500.00; second offense - \$1,000.00; and third offense - revocation of Supra Key.

**6.3 Required Email Address:** Every MLS Participant and every real estate licensee and licensed or certified appraiser who is affiliated with such MLS Participant and who has access to and use of the MLS through the MLS Participant shall be required to maintain on file with MLS a current, accurate and active email address at which they may be contacted.

## **CHARGES FOR NONCOMPLIANCE WITH RULES**

**7. Compliance with Rules:** Participants and Subscribers of the MLS are subject to these Rules and Regulations of MLS and may be disciplined for violation thereof as provided in this Section 7, Section 9 and Schedule of Fees and Charges, V below. Failure of any Subscriber to abide by the Rules and Regulations and/or any sanction imposed for violation hereof can subject the Participant to discipline and does not eliminate the Participant’s ultimate responsibility and accountability for all Subscribers affiliated with the Participant.

**7.1 Incomplete Listings:** Listings that are submitted for Association office loading and not complete in every detail shall be returned to the listing Participant for appropriate corrections.

### **7.2 Failure to Pay Subscriber Fees:**

**7.2.1** Payment of all quarterly service fees are due one month prior to the first day of the quarter.

**7.2.2** If payment is not received by the fifteenth (15<sup>th</sup>) day of the due date, the Participant or Subscriber will be notified: a) that their payment is delinquent, b) if payment is not received by the first day of the quarter, HARMLS services will be suspended.

**7.2.3** In the event HARMLS is unable to collect quarterly fees by the first day of the first month of the quarter, HARMLS services will be suspended.

**7.2.4** A notice shall be sent in advance to Participants or Subscribers who pay by check quarterly, stating that payment is due one month prior to the first day of the quarter and to those who pay by check annually, stating that payment is due the first (1st) day of June. If payment is not received by the fifteenth (15<sup>th</sup>) day of the due date for quarterly payments or by the fifteenth (15<sup>th</sup>) day of June for annual payments, the Participant or Subscriber will be notified via email: a) that their payment is delinquent, and b) if payment is not received by the first day of the quarter, HARMLS Services will be suspended. If a check is received but HARMLS is unable to collect funds, an NSF fee of \$25.00 shall apply.

**7.2.5** Failure to pay Subscriber fees within fifteen (15) days following suspension shall result in Participant or Subscriber termination and a reinstatement fee will apply.

## **MEETINGS**

**8. Meetings of MLS Advisory Group:** The Multiple Advisory Groups shall meet for the transaction of its business at a time and place determined by the committee or at call of the Chairman.

**8.1 Meetings of MLS Participants:** The advisory group may call meetings of the Participants of Multiple.

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

## **ENFORCEMENT OF RULES**

**9. Consideration of Alleged Violations:** The Multiple Listing Advisory Group shall process complaints concerning violations of the Rules and Regulations in accordance with the provisions of Section 9.1 and Schedule of Fees and Charges V below.

**9.1 Violation of Rules and Regulations:** A rule violation may be submitted to the MLS Department in one of the following ways:

- a. in writing (fax, email or mail), with dated MLS Translation attached, or generated by the MLS computer,
- b. by phone (if MLS number is known), or
- c. by the MLS Department pursuant to its automated quality assurance computer process.

The identity of any complaining party will be kept confidential.

Following submission of an alleged rule violation, the MLS Department shall send an email notice to the listing Subscriber with a copy to the listing Participant stating the listing number, the address of the listing, and the nature of the violation. If the violation is not corrected by the listing Subscriber or Participant within five (5) days following the email notice, a charge automatically will be entered in the Subscriber's MLS account and Subscriber will be sent a Notice of Violation by email stating the amount of the charge and that failure to pay the fee/charge and correct the violation within thirty (30) days following such notice shall result in the suspension of Subscriber's MLS services. Subscriber's MLS services will be suspended thirty (30) days following the Notice of Violation if the Subscriber fails to pay the fee/charge and correct the violation. If Subscriber's MLS services are suspended, the MLS Department shall send an additional email notice to Subscriber with a copy to the Participant stating that Subscriber's failure to pay the fee/charge and correct the violation within thirty (30) days immediately following such notice shall result in termination of Subscriber's MLS services. Subscriber's MLS services may not be reinstated until all fees/charges are paid in full.

**Note:** For violating MLS rules 2 and 2.5 there is no (5) day period to correct the violation and a charge will automatically be assessed as defined in section V. of the MLS Schedule of Fees and Charges. Subscriber will be sent a Notice of Violation by email stating the amount of the charge and that failure to pay the fee/charge and correct the violation within thirty (30) days following such notice shall result in the suspension of Subscriber's MLS services.

In the event of suspension of Subscriber's MLS services under this Section 9.1, the MLS Department shall send a Notice of Violation by email to Participant stating the following: (1) notice of Subscriber's suspension, (2) that Participant must correct the violation, and (3) that failure to correct the violation within thirty (30) days of such notice shall result in suspension of Participant's MLS services. Participant's MLS services will be suspended thirty (30) days following the Notice of Violation if the Participant fails to correct the violation. If Participant's MLS services are suspended, the MLS Department shall send an additional email notice to Participant stating that failure to correct the violation within thirty (30) days immediately following such notice shall result in termination of Participant's MLS services.

If the Subscriber or Participant disputes the rule violation, either may submit written request for an administrative review by the MLS Quality Assurance Task Force within five (5) days following the notice of violation. A written decision of the MLS Quality Assurance Task Force shall be provided to Participant or Subscriber within twenty (20) days after the request for administrative review. In the event either the Subscriber or Participant disputes the decision of the MLS Quality Assurance Task Force, either may request a hearing before the Professional Standards Committee of the Association in accordance with the By-Laws of the HOUSTON ASSOCIATION OF REALTORS® within five (5) days following the MLS Quality Assurance Task Force's decision.

**9.2 Complaints of Unethical Conduct:** All other complaints of Unethical Conduct should be referred by the complainant to the Professional Standards Committee.

## **CONFIDENTIALITY OF MLS INFORMATION**

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

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

**10.2 Access to Statistical Information:** Association members who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease statistical reports generated wholly or in part by the MLS, excluding “comparable” information and “sold” information. This information is provided for the exclusive use of Association members and individuals affiliated with Association 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.

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

**11. Authority to Submit Property:** 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.

**11.1 Ownership of Information:** All rights, title, and interest in each copy of every MLS Compilation created and copyrighted by the HOUSTON REALTORS<sup>®</sup> INFORMATION SERVICE and in the copyrights therein, shall at all times remain vested in the HOUSTON REALTORS<sup>®</sup> INFORMATION SERVICE.

**11.2 Right to Use Information:** Each Participant shall be entitled to lease from the HOUSTON REALTORS® INFORMATION SERVICE a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such Compilation. The Participant shall pay, for each such copy, the rental fee set by the Association.\*\*

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 Section 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 Association.*

## **USE OF COPYRIGHTED MLS COMPILATIONS**

**12. Distribution:** Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Association 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 MLS is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by an Association Multiple Listing Service where access to such information is prohibited by law.

MLS Participants are prohibited from sharing, providing or delivering the MLS database to, or facilitating access to the MLS database, to any Third Party, except in cases where a REALTOR Participant has entered into an HAR authorized Third Party Processing Agreement. The REALTOR Participant and the Third Party shall both sign the Third Party Processing Agreement and provide an executed original of that Agreement to HAR before HAR issues access authorization privileges to the Third Party.

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

Any display of listing information, including pending information and sold information, whether by the listing firm or by other Participants or their affiliated licensees, must include the name of the listing firm except where the information is used to prepare appraisals and other valuations of real property. In any display of listing information, other Participants and their affiliated licensees may not alter the online display or any informational part of the listing without the written permission of the listing firm. The following fields of information are considered confidential and shall not be displayed to a buyer, whether client or customer: pager number, night number, appointment number, private remarks, or showing instructions.

**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 the prospective purchasers are, or may, in the judgment of the Participants or their affiliated licensees, be interested.

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, "sold" information, "comparables", or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client.

However, only such information that an Association or Association-owned Multiple Listing Service has deemed to be nonconfidential 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 a prospective purchaser 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.

**12.3 Disclosure to Purchaser:** Participants who display the MLS Compilation to prospective purchasers or reproduce and distribute to prospective purchases a copy of property listing data contained in the MLS Compilation shall also disclose the following disclaimer to the prospective purchasers and retain evidence of such disclosure in the Participant's file:

*Information contained on the computer print-outs of the Multiple Listing Service (MLS) of the HOUSTON REALTORS<sup>®</sup> INFORMATION SERVICE (HRIS) is furnished by MLS Participants for dissemination to other MLS Participants, for their exclusive use, and should not be relied upon by Buyer/Tenant or any other person. There is no express or implied warranty by HAR or MLS as to the accuracy of such information, which should be independently verified by Buyer/Tenant or such other person. MLS does not verify the information and disclaims any responsibility for its accuracy.*

Such disclosure may be accomplished through use of the Disclosure to Buyer/Tenant form printed by HAR or such other means as the Participant may select.

## **USE OF MLS INFORMATION**

**13. Limitation On Use Of MLS Information:** Use of information from the MLS compilation of current listing information, from the Association's Statistical Report, or from any "sold" or "comparable" report of the Association or MLS for public mass-media advertising by an MLS Participant or in other public representations may not be prohibited. However, any print or non-print forms of advertising or other forms public representations based in whole or in part on information supplied by the Association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

*Based on information from the Houston Realtors<sup>®</sup> Information Service or its MLS for the period (date) through (date).*

The sales price for a particular property address may not be disclosed in public mass-media advertising or in other public representation without the prior written permission of both buyer and seller. Advertising of individual property listing information by an MLS Participant who did not participate in the transaction, as either the listing Participant or cooperating Participant, must include the name of the listing firm.

**13.1 Prohibitions Against Re-commercialization of MLS Information:** No part of the MLS may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the express written permission of the Association, except as provided in these rules. No person, whether or not an MLS Participant, shall be entitled to re-commercialize, or to impose any charge upon or receive any thing of value for the utilization, transmission, retransmission, or repackaging in any format, of any information obtained directly or indirectly from the MLS. 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. These rules confer no rights on anyone who is not a Participant in the MLS or a licensee affiliated with the Participant, or as otherwise provided by these rules, to obtain access to, download, copy, reproduce, manipulate, store in any information retrieval system, repackage, transmit, retransmit, or display, any MLS information, and all such activities are hereby prohibited.

## **CHANGES IN RULES AND REGULATIONS**

**14. Changes in Rules and Regulation:** Amendments to the Rules and Regulations of MLS may be made by a majority vote of the members of the MLS Advisory Group, subject to approval by the Board of Directors of the HOUSTON REALTORS® INFORMATION SERVICE.

## **ARBITRATION OF DISPUTES**

**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 Board of REALTORS or have their principal place of business within the same Board's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS.

(b) If the disputants are members of different Boards of REALTORS or if their principal place of business is located within the territorial jurisdiction of different Boards 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 Board/Association of REALTORS.

## **STANDARDS OF CONDUCT FOR MLS PARTICIPANTS**

**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.

**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.

**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.

**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.

**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.

**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 brokers' clients, unless such use is authorized by listing brokers.

**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.

**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.

**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.

**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.

**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.

**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 that 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.

**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.

**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.

**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.

**16.16.** MLS Participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/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.

**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 brokers' 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.

**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.

**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 prospects' exclusive representatives or at the direction of prospects.

**16.20.** Participants and Subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements.

**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.

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

**16.23** MLS participants' firm websites shall disclose the firm's name and state(s) of 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.

**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.

**16.25** The services which MLS participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

## **ORIENTATION**

**17. Orientation:** Any applicant for MLS Participation and any licensee affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program devoted to the MLS Rules and Regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided.

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancement and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated additional training remotely.

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

**18. IDX Defined:** IDX affords MLS participants the option of authorizing display of their listings on other participants' Internet Web sites.

**18.1 Authorization:** Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download or frame 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 as instructed by the seller.

**18.2 Participation:** Participation in IDX is available to all MLS participants who are REALTORS® and who consent to display of their listings by other participants.

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

**18.2.2** MLS participants may not use IDX-provided listings for any purpose other than display on their websites. This does not require participants to prevent indexing of IDX listings by recognized search engines.

**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 websites or VOWs) shall not be accessible via IDX sites.

**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), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell, 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.

**18.2.5** Participants must refresh all MLS downloads and refresh all MLS data at least once every three (3) days. The date of the last data update shall be displayed.

**18.2.6** Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

**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.

**18.2.8** Any IDX site 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, shall disable or discontinue either or both of those features as to 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 participants' websites.

Except for the foregoing and subject to Section 18.2.9, a participant's IDX site may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX site from notifying its customers that a particular feature has been disabled at the request of the seller.

**18.2.9** Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the IDX site. 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.

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

**18.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, pager number, night number, appointment number, agent remarks, list date, expiration date, bonuses, variable dual rate, interest rate, tax exemptions, days on market, etc.) may not be displayed on IDX sites.

**18.3.2** 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.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

**18.3.3** All listings displayed pursuant to IDX shall identify the listing firm in a readily visible color and typeface not smaller than the median used in the display of listing data and if hyperlinked, may only link to the listing firm's web site.

**18.3.4** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own Web sites subject to their participant's consent and control and the requirements of state law and/or regulation by framing such information on (1) the association's public access website, (2) through any MLS data licensee authorized to provide websites to Subscribers or (3) their Broker's public access website with the permission of the Broker.

**18.3.5** All listings displayed pursuant to IDX shall show the MLS as the source of the information being displayed as "Copyright © (current year), Houston Realtors Information Service, Inc." and "All information provided is deemed reliable but is not guaranteed and should be independently verified".

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

**18.3.7** 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.

**18.3.8** Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.

**18.3.9** Display of expired, withdrawn, terminated, sold and pending listings is prohibited.

**18.3.10** Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.

**18.3.11** Participants utilizing a "persistent" download (i.e., where the MLS database resides on participants' servers) of the MLS database are required to employ appropriate security protection such as firewalls, provided that any security measures required may not be greater than those employed by the MLS.

**18.3.12** IDX operators utilizing a “persistent” download (i.e., where the MLS database resides on participants’ servers) must maintain an audit trail of consumer activity on the IDX site and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

**18.3.13** If Participant’s IDX website includes, accesses or hyperlinks to any other website that provides estimates of property values derived from an automated process (Automated Valuation Models or AVM results) then the following disclaimer shall be included on the screen and printed report in readily visible color and not smaller than a 10 point typeface, disclaiming the accuracy of the information contained in the AVM result:

“This estimate of value was prepared using automated processes and should not be considered a comparative market analysis (CMA) or appraisal. You may contact us [or Firm’s name] to provide additional information and analysis for a more accurate estimate of the property’s value.”

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

### **Virtual Office Website (VOW)**

**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.

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

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

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

**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.

**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.

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

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

**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.

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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.

**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."

**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.

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

**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.

**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.

**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®.

**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.

**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.

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

(a) The compensation offered to other MLS Participants.

(b) The type of listing agreement, i.e., exclusive right to sell or exclusive agency.

(c) The seller's and occupant's name(s), phone number(s), or e-mail address(es).

(d) Instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property.

**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

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

**19.18** A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm 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.

**19.19** A Participant may allow a Registrant to view, retrieve, or download an unlimited number of currently active listings, however, Participant must limit the number of sold listings that a Registrant may view to not more than 50 sold listings in response to any inquiry and not more than 1,000 sold listings in any 12 month period.

**19.20** 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.

**19.21** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

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

## **INTERNET PUBLIC DISPLAY OF MLS SOLD DATA**

**20. Internet Public Display of MLS Sold Data:** REALTOR Participants may display on REALTOR Participants' public websites MLS Sold Data information utilizing the following described application:

**(a)** An application which provides "partial" sales data, including property address and sale date, but restricts the display of sales prices to broad ranges as approved by the HRIS Board of Directors. The application shall provide for a hyperlink to a har.com- hosted Home Detail Report containing a property photograph (if available), a data set of MLS characteristics excluding the sales price, the names and email hyperlink to the Listing and Selling Brokers involved in the sale transaction, and a search link capability that searches the MLS database of active listings similar to the property that is the subject of the Home Detail Report. This application may be utilized by REALTOR Participants or their Subscribers by framing such information on [www.har.com](http://www.har.com).

## TRANSMISSION OF LISTINGS

**21. Transmission of Listings:** Only REALTOR Participant listings, participating in IDX, shall be automatically transmitted by MLS to real property advertising web sites (e.g., [www.REALTOR.com](http://www.REALTOR.com), [www.HAR.com](http://www.HAR.com), [www.chron.com](http://www.chron.com), etc).

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## Multiple Listing Service—Schedule of Fees and Charges

### List of MLS Benefits & Services

| <u>Category</u>  | <u>Application *</u> | <u>Monthly *</u>  |
|--|----------------------|---|
| Participant Subscriber – HAR Member<br>(Designated Broker/Appraiser)   | \$100.00             | \$85.00 (main office)<br>\$20.00 (per branch office**)  |
| Subscriber (Agent) – HAR Member<br>(Licensed Agent/Appraiser)  | \$25.00              | \$20.00   |
| Participant Subscriber – Non HAR Member<br>(Designated Broker/Appraiser)   | \$100.00             | \$125.00 (main office)<br>\$30.00 (per branch office**) |
| Subscriber (Agent) – Non HAR Member<br>(Licensed Agent/Appraiser)  | \$25.00              | \$30.00   |
| Non-Licensed Office Staff<br>(1 free account per broker)<br>(1 additional free account for every additional 10 licensed agents sponsored by Participant) | -0-                  | \$20.00   |

- \* Monthly fees are **payable quarterly in advance** and are non-refundable and non-transferable.
- \* A \$25 per quarter processing fee shall be charged for subscribers who elect to receive a paper invoice via mail.
- \* Applicable taxes will be collected from HRIS/MLS Subscriber.
- \*\* Branch offices must have the same ownership and company name as the main office and maintain separate physical addresses.

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|---|---------------------|
| Fee for Listings Manually Input by HRIS/MLS Staff | \$75.00 per listing |
| Fee for MLS Searches performed by HRIS/MLS Staff  | \$50.00 per search  |
| Reinstatement Fee                                 | \$100.00            |
| Uncollected Funds Fee                             | \$10.00             |
| Subscriber Transfer Fee                           | \$10.00             |
| Public ID Change Fee                              | \$35.00             |

## **V. CHARGES FOR NON-COMPLIANCE WITH RULES BY SUBSCRIBERS AND PARTICIPANTS**

### **a. Charges for initial rules violation:**

1. For failure to file a listing or an exemption with Multiple within the specified time period (paragraphs 1.0 and 1.3 of Rules), there shall be a charge of \$100.00. For all other violations of paragraph 1.0 such as entering a listing in the wrong property class or without a valid listing agreement, there shall be a charge of \$250.00.
2. For failure to comply with Rule 1.2 there shall be a charge of \$100.00 for each violation.
3. For failure to comply with Rule 1.5 there shall be a charge of \$250.00 for each violation.
4. For failure to comply with Rule 1.18 there shall be a charge of \$100.00 for each violation.
5. For failure to correct false or misleading information (paragraph 1.22 of Rules) after five (5) day's notice there shall be a charge of \$100.00.
6. For entering a listed property in an inaccurate major area (paragraph 1.23 of Rules), there shall be a fine of \$100.00.
7. For failure to autopopulate a tax ID (paragraph 1.24 of Rules) there shall be a charge of \$100.00.
8. For failure to comply with Rule 1.25.1 (a) or 1.25.1 (b) there shall be a charge of \$100.00 for each violation. For failure to comply with Rule 1.25.1, paragraph 1, there shall be a charge of \$250.00 for each violation.
9. For failure to comply with Rule 2.5 there shall automatically be a charge of \$100.00 for each violation.
10. For a listing agent incorrectly entering him or herself as the selling agent when entering closing information in the MLS, the listing agent shall automatically be fined \$200.00. If this violation is not corrected within 30 days, there shall be an additional charge of \$200.00.
11. For failure to comply with MLS Rule, Sections 12 and 18 there shall be a charge of \$100.00 per listing displayed per offense.
12. For failure to provide the Multiple Listing Service with requested documentation relating to an alleged MLS violation within 5 days, the listing broker shall be fined \$100.
13. A fine of \$100.00 will be charged for any MLS Rule violation that does not currently have a fine associated with it.
14. For failure to comply with Rule 2 there shall automatically be a charge of \$250.00. For subsequent violations of Rule 2 within a 12 month period there shall automatically be a charge of \$1,000.
15. For failure to comply with Rule 6.1 and Rule 6.2 there shall automatically be a charge of \$500 for first offense, \$1,000 for second offense and revocation of MLS ID or Supra key for third offense.

16. For failure to comply with Rule 13 there shall automatically be a charge of \$300 per property display with a maximum of \$900 per advertising piece.
17. The MLS Quality Assurance Task Force may impose mandatory completion of a hands-on or online MLS rules class in lieu of a fine. Failure to complete the course within 30 days of the MLS Quality Assurance Task Force decision will result in suspension of MLS services.

**b. Charges for repeated rules violation:**

1. Fine amounts will be double the amount of the fine amounts stated in section V. a. above after the 2nd fined violation of the same offense within a 12 month period.

**\* MLS LISTING STATUS DEFINITIONS \***

| Status Code | Description              | Explanation  |
|-------------|--------------------------|--|
| <b>A</b>    | Active                   | Used for all currently active listings. Agents must have a valid listing agreement signed by the seller before entering a listing as Active. Listings that have a signed purchase contract (with contingency or otherwise) should NOT be classified as Active. |
| <b>OP</b>   | Option Pending           | Listings that are under contract and the seller and buyer have agreed to use the "Termination Option" in paragraph 23 of the standard TREC contract, effective 1/1/03.   |
| <b>PS</b>   | Pending continue to Show | Used for listings currently under contract but are still available to show. Listings having a contract with a contingency and taking back-up offers should be Pending Continue to Show.  |
| <b>P</b>    | Pending                  | Used for listings under contact and are no longer available to show.   |
| <b>S</b>    | Sold                     | Used when a property has funded and closed. All sales closed must be reported to MLS. Listings should not be changed to Sold status before the actual closing.   |
| <b>W</b>    | Withdrawn                | Used when a listing is temporarily taken off the market but a valid listing agreement still exists.  |
|             |                          |  |

|          |            |  |
|----------|------------|--|
| <b>T</b> | Terminated | Used when the listing agreement between the owner and the listing agent is terminated prior to the listing expiration date.    |
| <b>X</b> | Expired    | Used when the listing agreement between the owner and the listing agent ends, at an agreed upon date in the listing agreement. |

## **AUTOMATIC STATUS RECLASSIFICATION AND LISTING DELETION RULES**

The MLS Advisory Group defines business rules regarding when and under what circumstances the system will automatically reclassify a listing status or remove listings from the Tempo system.

### **STATUS RECLASSIFICATION RULES:**

**Active (A)** and **Withdrawn (W)** status listings automatically reclassify to **Expired (X)** status at midnight of the listing expiration date.

**Option Pending (OP)** status listings automatically reclassify to **Pending Continuing to Show (PS)** status four (4) days after the Option End Date unless modified by the listing office to the appropriate status, i.e. OP, P, or A.

**Pending Continuing to Show (PS)** listings automatically reclassify to **Pending (P)** status at midnight on the expiration date, unless changed to another status by listing office.

### **LISTING DELETION RULES:**

**Terminated (T)** listings are deleted from the system 1 year after the termination date.

**Expired (X)** listings are deleted from the system 1 year after the expiration date.

**Pending (P)** listings are deleted from the system 2 years after the pending date if the estimated closed date is in the past. Note: If you have a valid listing that is in Pending status for more than 2 years, make sure the Estimated Closed Date is a future date to avoid having the listing deleted.

**Note:** Although the listing detail is deleted per the above rules, the Property Archive Record remains indefinitely. Sold listings date back to 1997 and are currently being kept indefinitely.