

## **THE RULES AND REGULATIONS OF THE MULTIPLE LISTING SERVICE OF THE EAST TENNESSEE REALTORS®**

### **AUTHORITY**

The association of Realtors® shall maintain for the use of its members a multiple listing service, which shall be subject to the bylaws of the association of Realtors® and such rules and regulations as may be hereinafter adopted.

### **PURPOSE**

A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of sale (or lease).

### **PARTICIPATION**

Any Realtor® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law.

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

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

### **SUBSCRIBERS**

Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with participants.

## SECTION ONE LISTING PROCEDURES

Listings of real property of the following types, which are subject to a real estate broker's license, and are located within the service area of the Multiple Listing Service of the East Tennessee REALTORS® taken by Participants on an Exclusive Right to Sell or an Exclusive Agency Listing Contract, which offers cooperation and compensation to the other Participants of the Multiple Listing Service, shall be delivered to the Multiple Listing Service within 2 business days after all necessary signatures of Sellers have been obtained and list/effective date. A Coming Soon status listing is required to be entered into the MLS System for up to 5 calendar days prior to listings being ready to market. No showings shall be allowed and a Pre-Marketing Addendum must be signed by the seller and submitted to the Association upon request. A Coming Soon listing status will automatically become Active on the 6<sup>th</sup> day and DOM will then begin to calculate.

- (a) Single family homes for sale or exchange.
- (b) Vacant lots and acreage for sale or exchange.
- (c) Multi-family residential buildings for sale or exchange.
- (d) Commercial Industrial property for sale or exchange.
- (e) Auction Properties.
- (f) Rental Properties.

The Multiple Listing Service does 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 the "Property Data Form" is required. However, the Multiple Listing Service, through its legal counsel:

1. May reserve the right to refuse to accept a listing form, which fails to adequately protect the 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).
3. The Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts and may accept other forms of agreement which make it possible for the listing broker to offer cooperation and compensation to the other Participants of the Multiple Listing Service acting as subagents, buyer agents or Facilitators/Transaction Brokers.

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

The Service will not accept "business opportunities" listings and considers equitable interests, such as contracts to purchase and assignments of contracts to purchase, to be ineligible "business opportunities."

The Service may not accept net listings because they are deemed unethical and illegal in the state of Tennessee. Open listings are not accepted 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 listing** is the conventional form of listing submitted to the Multiple Listing Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The **exclusive agency listing** also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished in the remarks of the Property Data disseminated to all Multiple Listing Service Participants by the designation of "Exempted Prospects" from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. The Exclusive Agency listing shall be clearly distinguished in the listing information disseminated to all Multiple Listing Service Participants.

The 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.

The service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

**Section 1.01 CLEAR COOPERATION:** Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

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

**Section 1.1 LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE:** Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the Rules and Regulations of the Service upon signature of the seller(s).

**Section 1.2 DETAIL ON LISTINGS FILED WITH THE SERVICE:** A listing agreement or Property Data Form when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail, which is ascertainable as specified on the Property Data Form.

**Section 1.2.0 ACCURACY OF LISTING DATA:** Participants and subscribers are required to submit accurate listing data and required to correct any known errors.

**Section 1.3 EXEMPTED LISTINGS:** If the seller refuses to permit the listing to be disseminated by the Multiple Listing Service, the Participant may then take an "Office Exclusive Listing" and such listing shall be filed with the Multiple Listing Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service.

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

**Section 1.4 CHANGE OF LISTING:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Multiple Listing Service within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the change is received by the listingbroker.

**Section 1.5 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the Service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

**Section 1.6 CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions of any term in the listing shall be specified and noticed to the Participants.

**Section 1.7 LISTING PRICE SPECIFIED:** The full gross listing price stated in the listing contract will be included in the information published in the Multiple Listing Service compilation of current listings unless the property is subject to auction.

**Section 1.8 LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the Multiple Listing Service.

**Section 1.9 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The Multiple Listing Service shall not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

**Section 1.10 EXPIRATION OF LISTINGS:** Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the Multiple Listing

Service receives notice that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions or renewals of listings must be signed by the seller(s) and be filed with the Multiple Listing Service.

Section 1.11 TERMINATION DATE ON LISTINGS: Listings filed with the Multiple Listing Service shall bear a definite and final termination date as negotiated between the listing broker and the seller.

Section 1.12 SERVICE AREA: Only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant, but cannot be required by the service.

Section 1.13 LISTINGS OF SUSPENDED PARTICIPANT: When a participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective.

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

Section 1.14 LISTINGS OF EXPELLED PARTICIPANT: When a participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled participant shall, at the participant's option, be retained in the service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective.

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

Section 1.15 LISTINGS OF RESIGNED PARTICIPANTS: When a Participant resigns from the Multiple Listing Service, the Multiple Listing Service is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the Multiple Listing Service compilation of current listing information. Prior to any removal of a resigned Participant's listings from the Multiple Listing Service, the resigned Participant should be advised in writing of the intended removal so that the resigned Participant may advise his clients.

Section 1.16, Property Addresses: At the time of filing a listing, participants and subscribers must include a property address available to other participants and subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location

## **SECTION TWO SELLING PROCEDURES**

Section 2 SHOWINGS AND NEGOTIATIONS: Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker except under the following circumstances:

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

Section 2.1 PRESENTATION OF OFFERS: The listing broker, upon receipt of an offer from a cooperating broker, must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

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

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

Section 2.3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER: The cooperating broker 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.

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented.

Section 2.4 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTEROFFER: 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. 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 instruction

Section 2.5 STATUS CHANGES, INCLUDING FINAL CLOSING OF SALES: Shall be reported to the Multiple Listing Service by the listing broker within 72 hours after they have occurred. If negotiations were carried on under Section 2 (a) or (b) hereof, the cooperating broker shall report the accepted offer to the listing broker within 72 hours after occurrence and the listing broker shall report them to the MLS within 72 hours after receiving notice from the cooperating broker.

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

Section 2.6 REPORTING RESOLUTIONS OF CONTINGENCIES: The listing broker shall report to the Multiple Listing Service within 24 hours that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement canceled.

Section 2.7 ADVERTISING OF LISTING FILED WITH THE SERVICE: A listing shall not be advertised by any Participant other than the listing broker without the prior consent of the listing broker.

Section 2.8 REPORTING CANCELLATION OF PENDING SALE: The listing broker shall report immediately to the Multiple

Listing Service the cancellation of any pending sale and the listing shall be reinstated immediately.

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

Section 2.10 AVAILABILITY OF LISTED PROPERTY: Listing Brokers shall not misrepresent the availability of access to show or inspect listed property.

### **SECTION THREE REFUSAL TO SELL**

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

### **SECTION FOUR PROHIBITIONS**

Section 4 INFORMATION FOR PARTICIPANTS ONLY: Any listing filed with the Service shall not be available to any broker or firm not a Member of the Multiple Listing Service without the prior consent of the listing broker.

Section 4.1 "FOR SALE" SIGNS: Only the "For Sale" signs of the listing broker may be placed on a property.

Section 4.2 "SOLD" SIGNS: Prior to closing, only the "Sold" sign of the listing broker shall be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

Section 4.3 SOLICITATION OF LISTING FILED WITH THE MULTIPLE LISTING SERVICE: Participants shall not solicit a listing on property filed with the Multiple Listing Service unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations.

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

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through Multiple Listing Service 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 Multiple Listing Service by assuring them that other Participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

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

SECTION 4.4, USE OF THE TERMS MLS AND MULTIPLE LISTING SERVICE No MLS participant, subscriber or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

Section 4.5, Services Advertised as "Free" MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services

## SECTION FIVE DIVISION OF COMMISSION

Section 5 COMPENSATION SPECIFIED ON EACH LISTING: The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other Multiple Listing Service Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through Multiple Listing Service 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 the East Tennessee REALTORS®, the Participant of the Multiple Listing Service is making blanket unilateral offers of compensation to the other Multiple Listing Service Participants, and shall therefore specify on each listing filed with the Multiple Listing Service, the compensation being offered to the other Multiple Listing Service Participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.

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

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

The listing Participant cannot be required to disclose the amount of total negotiated commission in the listing contract, and the Multiple Listing Service cannot publish the total negotiated commission on a listing, which has been submitted, to the Multiple Listing Service by a Participant. The Multiple Listing Service cannot disclose in any way the total commission negotiated between the seller and the listing Participant.

The compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by the Multiple Listing Service is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the Multiple Listing Service 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 Multiple Listing Service will not include offers of cooperation that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount.

The Multiple Listing Service will not include general invitations by listing Participants to other Participants to discuss terms and conditions of possible cooperative relationships.

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

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.

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. In any instance where a participant discloses a potential short sale, they must also be permitted to communicate to other participants how any reduction in 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 must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers.

Section 5.0.1 Disclosing Potential Short Sales: Participants must disclose potential short sales when reasonably known to the listing participants. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers.

Section 5.1 PARTICIPANT AS PRINCIPAL: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant has any ownership interest in a property, the listing of which is to be disseminated through the Multiple Listing Service, that person shall disclose that interest when the listing is filed with the Multiple Listing Service and such information shall be disseminated to all Multiple Listing Service Participants.

Section 5.2 PARTICIPANT AS PURCHASER: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed in writing to the listing broker prior to the time an offer to purchase is submitted to the listing broker.

Section 5.3 DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS: The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold /leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by the appropriate code as required by the Multiple Listing Service. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction, or alternatively in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

Section 5.4, DISPLAY OF LISTING BROKER'S OFFER OF COMPENSATION: Participants and subscribers who share the listing broker's offer of compensation for an active listing must display the following disclaimer or something similar.

*The listing broker's offer of compensation is made only to participants of the MLS where the listing is filed.*

## **SECTION 6 FEES OF THE MULTIPLE LISTING SERVICE**

Section 6. FEES AND CHARGES: To defray the costs of the operation of the Multiple Listing Service, a schedule of fees is in effect and is subject to change from time-to-time when deemed appropriate by the Multiple Listing Service Committee.

Section 6.1 RECURRING PARTICIPATION FEE: The annual participation fee of each Participant (the Principle Broker - Designated REALTOR®) shall be the scheduled amount times each sales associate and licensed or certified appraiser who has access to and use of the Multiple Listing Service, whether licensed as a broker or sales associate or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. Payment of such fees shall be paid in advance of the scheduled date due. Fees shall be prorated on a monthly basis.

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



Section 6.2 USE OF THE MULTIPLE LISTING SERVICE: If a licensee brings listings to the Participant or shows/co-shows or sells/co-sells properties published by the Multiple Listing Service, this constitutes use of the Multiple Listing Service.

## **SECTION SEVEN COMPLIANCE WITH THE RULES**

### **SECTION 7, COMPLIANCE WITH RULES / AUTHORITY TO IMPOSE DISCIPLINE**

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

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

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

Note 2: MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

Section 7.1 COMPLIANCE WITH THE RULES: The following action may be taken for noncompliance with the rules:

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

Section 7.2 APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the Multiple Listing Service are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of Multiple Listing Service information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

## **SECTION EIGHT MEETINGS**

Section 8 MEETINGS OF THE COMMITTEE: The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairman.

Section 8.1 MEETINGS OF THE PARTICIPANTS: The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

Section 8.2 CONDUCT OF THE MEETINGS: The Chairman, shall preside at all meetings or, in the Chairman's absence, a temporary Chairman from the membership of the Committee shall be named by the Chairman or, upon his failure to do so, by the Committee.

## **SECTION NINE ENFORCEMENT OF RULES OR DISPUTES**

Section 9 CONSIDERATION OF ALLEGED VIOLATIONS: The Committee shall give consideration to all complaints having to do with violations of the Rules and Regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee.

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant.

Section 9.1 VIOLATIONS OF RULES AND REGULATIONS: If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and Rules and Regulations of the East Tennessee REALTORS® within twenty (20) days following receipt of the Committee's decision.

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

Section 9.2 COMPLAINTS OF UNETHICAL CONDUCT: All other complaints of unethical conduct shall be referred by the Committee to the Professional Standards Secretary of the Association for appropriate action in accordance with the Professional Standards procedures established in the Association's Bylaws.

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

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

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

If after ten (10) days following transmittal of the Committee's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

### Section 9.4 MLS Rules Violations:

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

## **SECTION TEN CONFIDENTIALITY OF MULTIPLE LISTING SERVICE INFORMATION**

Section 10 CONFIDENTIALITY OF MULTIPLE LISTING SERVICE INFORMATION: Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Multiple Listing Service. Such information contained therein shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

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

## **SECTION ELEVEN OWNERSHIP OF COMPILATIONS AND COPYRIGHTS**

Section 11 By the act of submitting any property listing content to the MLS, the participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparable. 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 the listed property.

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content.

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

Section 11.2 Display: Each Participant shall be entitled to lease from Multiple Listing Service a number of copies of each Compilation sufficient in number to provide the Participant and each person affiliated as a licensee with such Participant with one copy of such Compilation. The Participant shall pay, for each such copy, the rental fee set by the Multiple Listing Service. The Participants shall acquire by such lease only the right to use the Compilations in accordance with these rules.

The term Multiple Listing Service Compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, computer data base, or any other format whatever.

## **SECTION TWELVE USE OF COPYRIGHTED COMPILATIONS**

Section 12 DISTRIBUTION: Participants shall at all times maintain control over and responsibility for each copy of any Multiple Listing Service Compilation leased to them by Multiple Listing Service of the East Tennessee REALTORS® and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as licensees or 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 document of the Multiple Listing Service. Use of information developed by or published by the Multiple Listing Service is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association Multiple Listing Service where access to such information is prohibited by law.

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

Section 12.2 INCLUSION OF LISTING FIRM'S NAME IN DISPLAYS OF LISTING INFORMATION. Any display of listing information, whether by the listing firm or by other Participants, must include the name of the listing firm except where the information is used to prepare appraisals and other valuations of real property.

Section 12.3 REPRODUCTION: Participants or their affiliated licensees shall not reproduce any Multiple Listing Service Compilation or any portion thereof except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the Multiple Listing Service Compilation and distribute to prospective purchasers a reasonable\* number of single copies of property listing data contained in the Multiple Listing Service Compilation which relate to any properties in which the prospective purchaser 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 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 Multiple Listing Service 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, comparable, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

\* It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchasers' decision-making process in the consideration of a purchase. Factors which 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 Multiple Listing Service 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.

## **SECTION THIRTEEN USE OF MULTIPLE LISTING SERVICE INFORMATION**

Section 13 LIMITATIONS ON USE OF MULTIPLE LISTING SERVICE INFORMATION: Use of information from 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 of public representations based in whole or in part on information supplied by the association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

Based on information from the East Tennessee REALTORS MLS for the period (date) through (date).

## **SECTION FOURTEEN CHANGES IN RULES AND REGULATIONS**

Section 14. CHANGES IN RULES AND REGULATIONS MANDATED BY NAR POLICY: Mandatory changes to the rules and regulations of the Multiple Listing Service for compliance with the Multiple Listing Policy of the National Association of

REALTORS® may be amended by the Multiple Listing Service Committee and does not require a vote of the Participants. All the foregoing is subject to ratification by the Board of Directors of the East Tennessee REALTORS®.

Section 14.1 CHANGES IN RULES AND REGULATIONS NOT MANDATED BY NAR POLICY: The Rules and Regulations of the Multiple Listing Service may be amended or changed or additions made thereto at any meeting or at any special meeting of the Multiple Listing Service Participants called theretofore. The Participants must be notified in writing as to the proposed amendment, change or addition, at least one (1) week prior to said meeting. Before a vote on such amendment, change or addition, to be successful, must be approved by a majority of those present for the vote. No amendment, change or addition shall be valid which violates the By-Laws of the East Tennessee REALTORS®.

## **SECTION FIFTEEN ORIENTATION**

Section 15 Any applicant for Multiple Listing Service participation and any licensee (including licensed or certified appraisers) affiliated with an Multiple Listing Service Participant who has access to and use of Multiple Listing Service generated information shall complete an orientation program devoted to the Multiple Listing Service Rules and Regulations and computer training related to Multiple Listing Service information entry and retrieval and the operation of the Multiple Listing Service.

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.

## **SECTION SIXTEEN RULES FOR INTERNET DATA EXCHANGE ( IDX )**

Section 16 IDX DEFINED IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listing.

Section 16.1 AUTHORIZATION Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants

Section 16.2 PARTICPATION Participation in IDX is available to all MLS participants who are Realtors® who are engaged in real estate brokerage and who consent to display of their listings by other participants.

Section 16.2.1 Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

SECTION 16.2.2 MLS Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines.

SECTION 16.2.3 Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution

Section 16.2.4 Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), or type of listing (e.g., exclusive right-to-sell or exclusive agency). Selection of listings displayed through IDX must be independently made by each participant.

Section 16.2.5 Participants must refresh all MLS downloads and refresh IDX displays automatically fed by those downloads at least once every twelve (12) hours.

Section 16.2.6 Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity.

Section 16.2.7 Any IDX display controlled by a participant must participants' IDX displays must identify the listing firm and an email or phone number provided by listing participant in a reasonably prominent location and in a readily visible color

and typeface not smaller than the median used in the display of listing data. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules.

Section 16.2.8 Any IDX display controlled by a participant or subscriber that

a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all display controlled by participants. Except for the foregoing and subject to Section 16.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

Section 16.2.9 Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment

Section 16.2.10 An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display.

Section 16.2.11 Participants shall not modify or manipulate information relating to other participants listings. MLS participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display

Section 16.2.12 All listings displayed pursuant to IDX must identify the listing firm and an email or phone number provided by listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.

Section 16.3 DISPLAY Display of listing information pursuant to IDX is subject to the following rules:

Section 16.3.1 Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed.

SECTION 16.3.1.1 The type of listing agreement (e.g. exclusive right to sell, exclusive agency, etc.) may not be displayed.

Section 16.3.2 All listings displayed pursuant to IDX must identify the listing firm, and the email or phone number provided by the listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 16.3.3 Non-Principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their participant's consent and control and the requirements of state law and/or regulation.

Section 16.3.4 All listings displayed pursuant to IDX shall show the MLS as the source of the information.

Section 16.3.5 Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 16.3.6 The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance, shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer.

Section 16.3.7 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.

Section 16.3.8 Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

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

Section 16.3.9 Display of expired, withdrawn and canceled listings is prohibited.

Section 16.3.10 Display of seller's(s) and/or occupant's(s) name(s), phone number(s) and email address(es) is prohibited.

Note: The following Sections 16.3.11 and 16.3.12 may be adopted by MLSs that provide participants with a "persistent" download (i.e., where the MLS database resides on participants' servers) of the MLS database.

Section 16.3.11 Participants are required to employ appropriate security protection such as firewalls on their websites and displays provided that any security measures required may not be greater than those employed by the MLS.

Section 16.3.12 Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS Rules related to use by consumers.

Section 16.3.13 Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party.

Section 16.14 Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **SECTION SEVENTEEN VIRTUAL OFFICE WEBSITES (VOWs)**

### Section 17.1 VOW Defined

(a) A "Virtual Office Website" (VOW) is a participant's Internet website, or a feature of a participant's website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search

MLS listing information, subject to the participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant's oversight, supervision, and accountability.

(b) As used in Section 17 of these rules, the term "participant" includes a participant's affiliated non-principal brokers and sales licensees—except when the term is used in the phrases "participant's consent" and "participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an "Affiliated VOW Partner" (AVP) on behalf of a participant.

(c) "Affiliated VOW Partner" (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant's supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.

(d) As used in Section 17 of these rules, the term "MLS listing information" refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

#### Section 17.2

(a) The right of a participant's VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

(b) Subject to the provisions of the VOW policy and these rules, a participant's VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., "Internet Data Exchange" (IDX).

(c) Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant's VOW.

#### Section 17.3

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

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

ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.

iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at 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 e-mail address is associated with only one user name and password.

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

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



(d) The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:

- i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
- ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
- 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' ownership of and the validity of the MLS' copyright in the MLS database

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

(f) The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

Section 17.4 A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions or get more information about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

Section 17.5 A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

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

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

(c) The participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

#### Section 17.7

(a) Subject to Subsection b., below, a participant's VOW may allow third-parties:

- i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

(b) Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 17.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

Section 17.8 A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 17.9 A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

Section 17.10 Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS® VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

Section 17.11 A participant's VOW must display the participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

Section 17.13 A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

Section 17.14 A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

Section 17.15 A participant's VOW may not make available for search by or display to Registrants any of the following information:

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

Section 17.16 A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

Section 17.17 A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

Section 17.18 A participant must cause any listing that is displayed on his or her VOW to identify the listing firm and an email or phone number provided by listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.

Section 17.19 A participant shall limit the number of listings that a Registrant may view, retrieve, or download but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less.

Section 17.20 A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

Section 17.21 A participant may display advertising and the identification of other entities ("co-branding") on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

Section 17.22 A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

Section 17.23 A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

Section 17.24 Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

Section 17.25 Where a seller affirmatively directs his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within forty-eight (48) hours.

## **SECTION EIGHTEEN COMMON KEY LOCK BOX SERVICE**

Section 18. The Multiple Listing Service offers a Common Key Lock Box Service to the homeowner clients of its Participants for greater accessibility to the listed property by those authorized to use the service. Multiple Listing Service subscribers attach a key lock box on a listed home for sale and the house key inside the box. Qualified Keypad holders use their issued Multiple Listing Service Keypads to open the lock box. The Multiple Listing Service Keypad is a special Keypad, numbered and issued only to Association Members who subscribe to the Multiple Listing Service. Keypad Holders must place deposits on the Keypad and sign agreements as to its use and care. Only authorized subscribers of the Multiple Listing Service are authorized to carry and use Multiple Listing Service Keypads. A security system of the Multiple Listing Service Keypad issuance has been developed to ensure the best possible safeguards. All Keypad Holders pledge to abide by this security system by signing the Master Key Custody Agreement and abiding by the following Common Key Lock Box Rules:

Section 18.1 All appointments for showing or accessing property with a Multiple Listing Service Lock Box must be scheduled through the Listing Broker.

Section 18. 2 Keypad Holders using the Multiple Listing Service Keypad must remember to shut all windows, turn off all lights, and lock all doors after showing property.

Section 18. 3 Keypad Holders will report to the Listing Broker the results of the showing as soon as possible.

Section 18. 4 Keypad Holders will not, under any circumstances, loan the Multiple Listing Service Keypad to any individual not authorized by a Master Key Custody Agreement on file with East Tennessee REALTORS® Multiple Listing Service to use a Multiple Listing Service Keypad.

Section 18.5 Keypad Holders found guilty of loaning the Multiple Listing Service Keypad to an unauthorized individual will be required to forfeit their right to use the Keypad.

Section 18. 6 Keypad Holders with lost or stolen Multiple Listing Service Keypads will immediately notify the East Tennessee REALTORS®, the police and the broker of the firm of such loss and follow the instructions in the Master Key Custody Agreement.

Section 18. 7 Keypad Holders with any change in status (release, transfer, suspension or revocation) will immediately return the Multiple Listing Service Keypad to the proper authorities.

Section 18. 8 Listing Brokers will notify the seller, at the time of listing, of the Multiple Listing Service Lock Box System. The seller will be asked for permission to use the Multiple Listing Service Lock Box.

Section 18. 9 Showing and Accessing Keypad Holders will not leave business cards or other company literature on the premises unless requested by the Listing Company.