

# New York State Alliance of Multiple Listing Service's (NYSAMLSs)

## Multiple Listing Rules and Regulations – adopted by *Western New York Real Estate Information Services, LLC.*

NYSAMLS, Inc. is a Multiple Listing Service Joint Venture. Shareholders are the owners of Central New York Information Service, Inc. (CNYIS), Western New York Real Estate Information Services, LLC. (WNYREIS) and Upstate New York Real Estate Information Services LLC (UNYREIS). Members/Participants are Broker Owners who meet the requirements of membership. Subscribers are Licensees of Members/Participants. All Shareholders, Members/Participants & Subscribers shall adhere to the Code of Ethics of the National Association of REALTORS®.

## Listing Procedures

**Section 1 Listing Procedures:** Listings of real or personal property of the following types:

- a) single family homes for sale or exchange, including condominiums and townhouses
- b) vacant lots and acreage for sale
- c) two-family, three-family and four-family residential buildings for sale or exchange,

which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the multiple listing service, and taken by Participants on an Exclusive Right to Sell or an Exclusive Agency listing contract, shall be delivered (entered into the computer system) to the Multiple Listing Service within **Twenty-Four (24) hours of List Date**, if defined in Exclusive Right to Sell or Exclusive Agency, otherwise, after all the necessary signatures of seller(s) have been obtained. Listings of property located outside of the MLS's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service. (Amended 11/01)

**A copy of the listing contract may be requested via computer audit and/or staff. Refer to Section 1.16 – Monitoring of Listings. The listing service member shall retain the listing agreement and the property data form for at least three (3) years.**

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

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

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

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service.

The different types of listing agreement include:

- exclusive right to sell
- exclusive agency
- open
- net (not acceptable in NYS)

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. (Amended 4/92)

The **exclusive right to sell listing** is the conventional form of listing submitted to the multiple listing service in that the seller

authorizes the listing broker to cooperate with and to compensate other brokers. (Amended 4/92)

The **exclusive agency listing** also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or a symbol from the exclusive right to sell listings with no named prospects exempt, 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 exempt. Care should be exercised to insure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations. (Listing Types: “Exclusive Right to Sell” or “Exclusive Agency”. Service Types: “Limited Service” or “MLS Entry Only”. If Prospect Reservations included indicate “Y” in the “Special Conditions Apply Call Listing Broker” field.) (Amended 4/92)

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

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

**Section 1.01 Clear Cooperation\*\*** Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 11/19) **M**

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

**Section 1.1 Types of Properties** - Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the participant’s option provided, however, that any listing submitted is entered into within the scope of the participant’s licensure as a real estate broker: (Amended 11/91) **O**

- residential
- residential income
- subdivided vacant lot
- land and ranch
- business opportunity
- motel-hotel
- mobile homes which include real property (lease negotiations)
- mobile home parks
- commercial income
- industrial

**Section 1.1.1 Listings Subject to Rules and Regulations of the Service** - Any listing taken on a contract to be submitted with the service is subject to the rules and regulations of the service upon signature of the seller(s). **R**

**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. **R (It is the responsibility of the Designated REALTOR® to ensure accuracy at all times.)**

1. **Owner’s Name:** The Owner’s Name must always be filled in with the actual name(s) as appears on the deed. If the owner(s) do not wish their name to appear in the MLS, then a letter from the owner must be required by the listing agent or noted on the listing agreement and filed with the service for approval. Authorizations must be on file with the MLS. The listing should state “Authorization on file” in owner’s name.
  - a. **Owner of Record** - not permitted.
  - b. **Estate Owner** – Enter “Estate of” followed by the name of the deceased.
  - c. **Bank or Mortgage Company** - Enter the name of the Bank or Mortgage company instead of the word

“Bank.” (Ex. “ABC Bank.”)

d. **Relocation or Third Party Owner** – Enter the name of the company (ex. “XYZ Relocation.”)

2. **Listing Agent's Name and ALL contact Information:** The listing agent's name/all phone numbers/mail address/website addresses must appear only in the field(s) designated for such. A fine will be levied to those firms who show an agent's name and/or any phone number and/or email address in any other field in the MLS (i.e. - agent's phone number; whether home, voice mail, pager, etc., **cannot show** in "Public Remarks" and/or "Directions to Property" field.)
3. **Photos:** All property types, except vacant land and all statuses must include an exterior view of the home (main building) as the first photo and it must be submitted at the time the property is made Active in the MLS, unless the sellers expressly direct that photographs of their property not appear in MLS compilations. An exterior front (street) view of the home (main building) is required as one of the photos. (An exception would be a "to be built" property). New Construction may use a comparable rendering or photo. Office, agent and personal promotion information is prohibited from being included anywhere on the property photo. **Photos entered into the MLS cannot be reused by another broker without the consent of the listing broker who originated the photo(s).** Any and all photos submitted cannot contain a watermark or image(s) of any identifiable person — real, animated, computer-generated, or otherwise. A banner on a photo is not allowed with the exception of virtually staged photos. If using a banner, it should read “This photo is virtually staged”. For violations of this section, the MLS may remove the violation and/or fine the Participant.

**NOTE:** Photos shall not contain digitally enhanced modifications that alter or misrepresent the condition or appearance of the listed property's structure or grounds (e.g. adding/removing landscaping, changing the color of a wall or removing a structural defect). Images may include the use of virtual staging, which is limited to the addition of furnishings and wall décor that would otherwise be considered personal property and not conveyed in the sale of the property.

**NOTE:** “Courtesy” notices may be sent on any photos that may contain personally identifiable items (in photographs, paintings, license plates, etc.): It's a good idea to remove family photos and items printed with family names due to safety and security reasons.

4. **Attachments:** Attachments are required if the form is required by State or Federal laws specific to the property (i.e. Property Condition Disclosure Statement and Lead-Based Paint Addendum). The form(s) must be filed as an attachment AT THE SAME TIME that the listing is entered into the MLS and entered individually under the appropriate description. All attachments must contain information, (i.e. disclosure forms, photos, floor plans, maps virtual tours) specifically related to the property being offered. These attachments should not be used for listing agent, company or personal promotion.
5. **Virtual Tour/3D Virtual Tour/Aerial Drone Video Link Fields:** The Virtual Tour/3D Virtual Tour/Aerial Drone Video fields shall contain only a URL link directly to the Virtual Tour for that specific property listing. The URL is not to contain Agent/Company names. A Virtual Tour is defined as a 360-degree tour of a property, or a slide show of static pictures, which may include audio. Visual or audio information regarding the listing agent and/or company including contact information is prohibited. Advertisements are not allowed. Links or framing that show or lead to contact information or advertisements are also prohibited. For violations of this section, the MLS may remove the violation and/or fine the Participant. In addition, a notice will go to the Participant asking him/her to correct the information within Forty-Eight (48) hours or the MLS will remove the tour/video link. **Virtual Tours/3D Virtual Tour/Aerial Drone Videos entered into the MLS cannot be reused by another broker without the consent of the listing broker who originated the tour(s).**
6. **Remarks Sections:**
  - a. “Public” Remarks Section – This section is reserved to further describe the property being offered for sale or lease. It should NOT contain: anything that is not about the property itself including marketing info; showing info; personal information; company information; web addresses; phone numbers; co-listers; links; bonus information; words or phrases that could violate Fair Housing laws; other inappropriate information, unless required by MLS Rules or guidelines.
  - b. “Private” Remarks Section – This section is reserved for information to be shared with other MLS Participants. This includes: bonus information; lock box location; appointment information; web addresses.
  - c. Note: It is the responsibility of the Designated REALTOR to ensure accuracy at all times. The responsibility of data accuracy when entered in the MLS cannot be placed on another party such as the buyer or buyer's agent.
7. **Delayed Showings/Negotiations:** Delayed Showings/Negotiations (DNS notices) are allowed. All listings in the Service that are not immediately available for showing/negotiations must have the owner(s) complete the **required**

Delayed Showing/Negotiation Form. This form must be filed as an attachment to the listing AT THE SAME TIME the listing is entered into the MLS and entered individually under the appropriate description. The date(s) and time(s) that the property will be available for showing and/or negotiations MUST be put into the PRIVATE & PUBLIC Remarks. Open houses are not to be scheduled during the “No showing” time frame. Note: The property is to be considered “Active” and days on market will continue to be counted. Once signed, the showing and or negotiations time frame cannot be shortened.

**NOTE:** The Do Not Show/Negotiate Form should only be used when it is initially listed. They should use the Change Form to extend these dates and upload as an attachment.

If the seller decides, after it is listed, that they want to delay showings, the status may be changed to “T” and the Change Form used (the change form does not need to be added as an attachment.)

If the seller decides, after it is listed, that they would like to set a date for all offers to be in, they can do so by stating so in “Public Remarks” and “Private Remarks”. Nothing else is required by the MLS, however, you should reach out to anyone who has seen the property or scheduled to see the property to inform them of this date.

8. **Directions to Property:** The Directions to Property field must contain directions that any reasonable, prudent person can use to locate the property. Consult map, see agent, sign names, company identity, websites and other inappropriate information, are not permitted.
9. **Address:** The address field requires the house number and street name only. DO NOT put any other information in this space (ex. Bonus, EZ Show, LBEC, ASSUME, etc.). “Bonus” information should be located in the “Private Remarks” section. If there is a directional, such as “N” for north, enter in the Pre or Post directional field. Other directional input should go in the “Directions to Property” section.
10. **Tax Information:** Enter only the Total True Taxes. Do not enter taxes reflecting any exemptions. Exemption value can vary from individual to individual. The Tax ID# must match the Tax ID# supplied by the MLS tax vendor, where available. When not available, Tax ID must also contain the SWIS Code, if property is located in NY state.
11. **Proper MLS Area/Property Type:** All properties must be listed according to address and assessment jurisdiction only. NYSAMLS will not accept an additional listing for a property because the listing office wants to emphasize the school district, zip code, etc.
12. **Exclusive Right to Sell Contract:** All information in the Exclusive Right to Sell Contract must correspond with the Property Data Form and the information entered in the MLS. When taking a listing for a “To Be Built” lot (RES) or vacant land, an Exclusive Right to Sell Contract and Property Data Form for each lot listed is not required but the listing contract must list all of the lots to be sold. (ex: If twenty-two (22) lots are allocated to be sold in a subdivision, each lot may be listed on one Exclusive Right to Sell Contract and should each be entered under a separate ML number in the MLS.)
13. **Changes** - All changes to the listing agreement information must be entered into the service within 24 hours.
14. **Square Footage** – Square Footage should match the tax records (Realist). **If the tax records are incorrect and the square footage is changed from what the tax records indicate, an explanation of the difference must be disclosed in the public remarks.** *Note – please indicate the source of the adjusted square footage*. For reference, Square Footage is area which measured from the exterior is “above grade and heated living area”.
15. **Use of Incomplete MLS #'s** - MLS#'s of Incomplete listings are prohibited from use in advertising in any media until the property is in the “Active” Status.

### **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. **M**

### **Section 1.2.1 Limited Service Listings**

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

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)

- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

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

**Note:** Adoption of Section 1.2.1, limited service listings, is optional and a matter to be determined by each MLS. *(Adopted 5/01)* **O**

**Section 1.2.2 MLS Entry-only Listings**

Listing agreements under which the listing broker will not provide any of the following services:

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

will be identified with an appropriate code or symbol (e.g., "Service Type" Field) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**Note:** Adoption of Section 1.2.2, MLS Entry-only Listings, is optional and a matter to be determined by each MLS. *(Adopted 5/01)* **O**

**Section 1.3 Exempt Listings** - If the seller refuses to permit the listing to be disseminated by the Service, the participant may then take the listing (office exclusive) and such listing shall be filed with the Service but not disseminated to the participants. Filing of the listing should be accompanied by certification ("office exclusive form") signed by the seller that he does not desire the listing to be disseminated by the Service. The listing contract and certification form (office exclusive) must be received at the service within **2 1** business days of the listing date on the contract.

**Note 1:** Section 1.3 is not required if the service does not require all *Exclusive Right to Sell and Exclusive Agency* listings to be submitted by a participant to the service. **M** Multi-Family 5+, Rentals, and Commercial listings are not required to be submitted to the service.

**Note 2:** MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation. **M**

**Section 1.4 Change of Status of Listing** - Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the service within twenty-four (24) hours after the authorized change is received by the listing broker. **R**

Status	Translation	Explanation
<b><u>On Market Statuses</u></b>		
A	Active	Property available to be shown, no signed contract exists, with the exception of a contract with the Contingency of a property to sell, to be identified in the Showing Instructions as "Contingent upon sale of a property".
C	Continue to Show	Property available to be shown, contract exists, both parties have signed, waiting for contingencies to be fulfilled.
<b><u>Off Market Statuses</u></b>		
U	Under Contract	Property is not to be shown, contract exists - both parties have signed, waiting for contingencies to be fulfilled.
P	Pending	Contract exists, all contingencies met, except financing and is waiting for closing (Sale Information

		may be entered.)
S	Closed Sale	Property Closed/Rented (Sale information added at this time)
T	Temporarily off the Market	Property temporarily unavailable, should be back on market
W	Withdrawn	Property no longer on the market, cannot be listed in the MLS by any broker until expiration date
X	Expired	Property Expired, can be listed by another broker

**Section 1.5 Withdrawal of Listing Prior To Expiration:** Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided notice is filed with the Service including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

Withdrawals of listings must be submitted to the MLS within twenty-four (24) hours. The "Withdrawal" or "Change" form must be signed by the owner(s) and the Designated REALTOR/Office Manager/or any other authorized individual.

**Section 1.6 Contingencies Applicable To Listings:** Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants. **R**

**Section 1.7 Listing Price Specified:** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction. (Amended 11/92) **M**

In the case of "value range pricing", the "VRP" field must be completed with a "Y" (Yes) **and the full gross listing price is to be entered with any amount between the range of the low price and the high price, as agreed by the listing broker and the seller, reflective of the fair market value of the property;** and the first line of the "Public REMARKS" field must state: Seller (s) will entertain offers between \$xxx,xxx (low price) and \$yyy,yyy (high price). **Require that any VRP listing send in the section of the listing contract that pertains to the Listing price and/or price range to the MLS.**

In the case of "Auctions", when there is a "reserve" price, then that price is to be the Listing Price.

**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. **O**

Note – When entering a listing with multiple parcels, only the primary parcel may be listed in the Tax ID field. The Tax ID, address(es) and individual acreage of the other parcel(s) should be listed in Public Remarks or on a PDF added as a Public Attachment and referred to in Public Remarks. When combining parcels, it is acceptable to enter the combined total acreage in the listing. If only one or some of the listed parcels have been sold, contact the multiple listing service for assistance in closing the listing in the MLS to ensure the accuracy of comparable sales and future statistics.

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

**Section 1.10 Expiration of Listings:** Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. (Amended 11/01)

If 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 and renewals of listings must be signed by the seller(s) and filed with the service. (Amended 11/01) **M**

**Section 1.11 Termination Date on Listings:** Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing broker and the seller. **M**

**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. (Amended 11/17)

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

**Section 1.13 Listings Of Suspended Participants:** When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS 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 Participants listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participants' 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. **M**

**Section 1.14 Listings Of Expelled Participants:** When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MLS 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 Participants listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participants' 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. **M**

**Section 1.15 Listings Of Resigned Participants:** When a participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned participant’s listings in the MLS compilation of current listing information. Prior to any removal of a resigned participant’s listings from the MLS, the resigned participant should be advised, in writing, of the intended removal so that the resigned participant may advise his clients. **O**

**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. (Amended 05/21) **M**

**Section 1.17 Monitoring Of Listings: Listing Contract Random Audit and Complaint Procedure:**

**Random Audits**

The listing check software will randomly request a copy of a listing contract. Requested contracts must be received at the MLS office within 2 business days of the listing check request, preferably via email to: [MLScompliance@bnar.org](mailto:MLScompliance@bnar.org) (naming the document the MLS #), but it can be submitted via fax or USPS. Failure to submit the contract within the specified time frame will result in a fine to be paid within 30 days. If fine is not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until the fine is paid. The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

The requested contracts will be reviewed for compliance with the MLS rules. Non-compliance may result in additional fines.

**Renewals** – the listing check software will randomly automatically send out requests for the renewal paperwork (either listing contract or form.) Requested paperwork must be received at the MLS office within 2 business days of the listing check request, preferably via email to: [MLScompliance@bnar.org](mailto:MLScompliance@bnar.org) (naming the document the MLS #),

but it can be submitted via fax or USPS. Failure to submit the paperwork within the specified time frame will result in a fine to be paid within 30 days. If fine is not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until the fine is paid. The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

The requested information will be reviewed for compliance with the MLS rules. Non-compliance may result in additional fines.

### **Complaints**

If a complaint is received by the MLS and a copy of the listing contract/withdrawal form/mutual termination form, etc. is requested, the agent/manager/office must produce the contract within the following time frame:

AM request – by 4:00 p.m. the same day.

PM request – by Noon the following business day.

Failure to submit the contract within the specified time frame will result in a fine to be paid within 30 days. If the fine is not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until fine is paid. The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

Note: the request will be made via phone call to the Designated REALTOR, office manager or secretary. The request time frame will be based on the time that personal contact was made with the manager or secretary.

**Section 1.18 Duplicate Listings:** In order to protect the database the listing agent, must monitor his/her listings and sales and see that they are appropriately accounted for even if the transaction on the property continues after the expiration date (Pending status). Always search the database prior to entering a new listing. This will assure that a listing is not a duplicate.

*Note: Listings that are in the A, C, T, W, U or P status are considered currently listed and should not be entered as a new listing before existing listing is expired. A second listing can be entered into the MLS under a DIFFERENT PROPERTY TYPE provided: a. it is zoned properly b. The first line of the PRIVATE Remarks MUST identify the MLS listing number of the other listing c. The listing office is to notify the MLS Services Department to DELETE THE SECOND LISTING when the property is sold or expired in order for statistics to be accurate and d. A fee may be required (See Appendix A – Fees.) Note - Any change to the address or tax account number in order to input a duplicate listing is a violation of these rules and subject to a fine.*

**Section 1.19 Relocation:** If a property goes to Relocation or other third party company and is listed with a new listing agent, the former listing agent must obtain and submit a “Mutual Termination” Form signed by the previous owner(s) and Broker/Office Manager or a copy of the relocation company’s agreement and “Expire” the listing. The new listing office shall obtain an Exclusive Right to Sell Contract from the Relocation or third party company and enter it as a new listing.

## **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. (Amended 4/92) **M**

**Section 2.1 Presentation of Offers:** The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. (Amended 4/92) **M**

**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(s) obtain the advice of legal counsel prior to acceptance of the subsequent offer.



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

**Section 2.3 Right of Cooperating Broker in Presentation of Offer:** The cooperating participants or their representatives have the right to participate in the presentation of any offer they secure to purchase or lease to the seller or lessor. They do not have the right to be present at any discussion or evaluation of the 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 offers they procure are presented, the cooperating brokers has the right to a copy of the seller’s or lessor’s written instructions. None of the foregoing diminishes listing broker’s right to control the establishment of appointments for such presentations. (Amended 11/18) **M**

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

**Note – These written instructions from the seller are to be submitted to the MLS when a listing contract is requested.**

**Section 2.4 Right Of Listing Broker In Presentation Of Counter-Offer:** The listing broker or his representative shall have the right to participate in the presentation of any counter-offer made by the seller or lessor but does not have the right to be present in any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter- offer is presented, the listing broker has the right to a copy of the purchaser’s or lessee’s written instructions. (Adopted 11-93) **M**

**Section 2.5 Reporting Sales To The Service:**

- a) Status changes including final closing of sales, shall be reported to the multiple listing service by the listing broker within 24 hours after they have occurred. If negotiations were carried on under Section 2a. or b. hereof, the cooperating broker shall report accepted offers to the listing broker within twenty-four (24) hours after occurrence and the listing broker shall report to the MLS within twenty-four (24) hours after receiving notice from the cooperating broker. (Amended 11/11)
- b) **Reporting Non-MLS Sales for Comparable Purposes Only (Comp Only):** For sold data to be entered into the MLS for the sole purpose of comparable information, an MLS\* subscriber/participant must represent the buying side of the transaction. These include listings that were not made available for cooperation/compensation such as a FSBO, New Construction, or a listing from a neighboring MLS (excludes wholesale, assigned contracts, and the acquisition side of distressed sales). These may be entered for Selling/Buyer’s Agent credit only after the sale is finalized. Please contact your MLS for the written procedure on how to proceed which will include how to enter the listing so it will not show as available. The MLS will update the listing agent, replacing it with the unrepresented seller ID for that MLS, and then correct the listing, contract, and closing dates. Listings entered for comparable purposes only will have “For Comparable Purposes Only” added to the first line of private remarks. If the comparable sale is not submitted within thirty (30) calendar days of its closing date, it cannot be entered into the MLS. These entries are optional.

\* MLS includes all MLS’s that participate in the New York State Alliance of MLSs database.

In addition, no participant will report a single sale more than one time on any property filed with the Multiple Listing Service.

**Note 1:** The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants. (Amended 11/01)

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

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

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

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. *(Adopted 11/11)*

**Note 3:** As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records. *(Adopted 11/11)* **M**

**Section 2.6 Reporting Resolutions Of Contingencies:** The listing broker shall report to the multiple listing service within twenty-four (24) hours that a contingency on file with the multiple listing service has been fulfilled or renewed, or the agreement cancelled. **M**

**Section 2.7 Advertising Of Listings Filed With The Service:** A listing shall not be advertised by any participant other than the listing broker without the prior consent of the listing broker. **M**

**Section 2.8 Reporting Cancellation Of Pending Sale:** The listing broker shall report immediately to the Service the cancellation of any pending sale, and the listing shall be reinstated immediately. **M**

**Section 2.9 Disclosing The Existence Of Offers:** Listing Brokers, in response to inquiries from buyers or cooperating brokers, shall, with the sellers’ 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. *(Amended 11/08)* **O**

**Section 2.10 Availability Of Listed Property:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property. *(Adopted 11/05)* **O**

## Refusal To Sell

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

## Prohibitions

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

**Section 4.1 “For Sale” Signs:** Only the for sale sign of the listing broker may be placed on a property. *(Amended 11/89)* **M**

**Section 4.2 “Sold” Signs:** Prior to closing, only the “sold” sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. *(Amended 4/96)* **M**

**Section 4.3 Solicitation of Listing Filed with the Service:** Participants shall not solicit a listing on property filed with the service unless such solicitation is consistent with Article 16 of the REALTOR® 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 MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

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

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

**Section 4.4 Use of the Terms MLS and Multiple Listing Service:** No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. (Adopted 11/07) **O**

**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. (Amended 11/21) **M**

## Division of Commissions

**Section 5 Compensation Specified On Each Listing:** The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other multiple listing participants for their services in the sale of such listings. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this Rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through the MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. (Amended 11/98)

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

\* The compensation specified on listings filed with the multiple listing service shall appear in one of two forms. The essential and appropriate requirement by a Multiple Listing Service is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of submitting an offer to purchase. The

compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. by showing a percentage of the gross selling price.
2. by showing a definite dollar amount. (Amended 5/10)
3. by showing a percentage of net sales price.\*

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

This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the Service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales (or lease) price or as a flat dollar amount. (Amended 5/10)

\* **Note:** MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). (Adopted 5/08)

While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define "seller concessions" for purposes other than new construction, unless that term is defined by applicable state law or regulation. The definition of "seller concessions" is loan origination or discount fees, mortgage application fee, mortgage tax, deed and mortgage recording fees, mortgage title insurance premium, appraisal fee, credit report and lender's attorney's fee, pre-payables and escrow that is paid by the seller on behalf of buyer, as per original contract.

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

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

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

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

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

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

**Section 5.0.1 Disclosing Potential Short Sales:** Participants may, but are not required to, 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) to other participants and subscribers. (Amended 5/09)

When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. (Adopted 5/09)

Where participants 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 the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within 24 hours of receipt of notification from the lender. (Adopted 5/10) **M**

**Section 5.1 Participant As Principal:** If a participant or any licensee (or licensed or certified appraiser) affiliated with a participant has any ownership interest in a property, the listing of which is to be disseminated through the multiple listing service, that person shall disclose that interest when the listing is filed with the multiple listing service and such information shall be disseminated to all multiple listing service participants. **M**

**Section 5.2 Participant As Purchaser:** If a participant or any licensee (including licensed or certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker. (Amended 2/92) **M**

**Section 5.3 Dual or Variable Rate Commission Arrangements - Not Enforceable in NYS**

**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. (Amended 11/21) **M***

\* **Note: MLS includes all MLS's that participate in the New York State Alliance of MLSs database, including:** Central New York Information Service, Inc. (CNYIS), Western New York Real Estate Information Services, LLC. (WNYREIS) and Upstate New York Real Estate Information Services LLC (UNYREIS), Chautauqua-Cattaraugus BOR, Cortland County BOR, Jefferson-Lewis BOR, McKean County AOR and Mohawk Valley AOR.

## Service Charges

**Section 6 SERVICE FEES AND CHARGES:** The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:

**Initial Participation Fee:** An applicant for participation in the Service shall pay an application fee of \$ **(Refer to Appendix A - Fees)** with such fee to accompany the application. The application fee is predicated upon participation remaining in force. If a Participant is inactive for a year or more, a new fee will be required to reactivate the Participant's status.

**Recurring Participation Fee:** The participation fee of each participant shall be an amount equal to \$ **(Refer to Appendix A - Fees)** times each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, salesperson or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. Payment of such fees shall be made on or before the first day of the fiscal year of the Multiple Listing Service. Fees shall be prorated monthly per schedule in Appendix A - Fees.

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that broker participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated\* *(Adopted 11/18) **M*** By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which

are at the sole discretion of the Committee (Board of Directors).

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

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

**Listing Fees:** Refer to Appendix A – Fees.

**Staff Fees:** An MLS may charge for the use of staff time. Refer to Appendix A – Fees.

**Census:** A census may be conducted for the purpose of tracking licensees of Participants and licensed or Certified Appraisers who are licensed under or working for a MLS Participant. An invoice will be sent on behalf of the above mentioned licensee. Failure of the Participant to report such individuals after receipt of invoice will result in suspension. At the time of the census, brokers must verify any clerical staff and their passwords.

**Refunds:** Refer to Appendix A

**Assessments:** The MLS is authorized to levy special assessments for the purpose of meeting current operating expenses of the Service provided; however, that such special assessment during any calendar year shall not increase the annual participation fee for each Participant and participating licensee in excess of \$(See Appendix A).

**Other Fees:** Other fees for Keybox system, Security program, etc. may be instituted. Refer to Appendix A.

## Compliance with 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. *(Adopted 11/07) M*

**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. *(Revised 05/14) M*

**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. (Adopted 11/20) **M**

**Section 7.1 Compliance with Rules:** The following action may be taken for noncompliance with the Rules:

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

Upon notification to the MLS of any infraction of the MLS Rules and Policies, the MLS Staff or Automated Compliance Program will do the following: Contact the listing agent or manager or Designated REALTOR® of the firm to resolve the infraction. If the infraction is not corrected within forty-eight (48) hours, the appropriate sanction will be imposed on the Designated REALTOR®. The first notification of a rule violation is used to educate the agent of the infraction and the Listing Brokerage is given 48 hours to correct or the applicable fine will be assessed. The second notification for same rule violation (for any listing) to the same agent sets grounds for an immediate first offense fine to the DR® (refer to Appendix A). The third notification for same rule violation (for any listing) sets grounds for an immediate second offense fine to DR® (refer to Appendix A), etc.

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

**Section 7.2 Applicability Of Rules To Users And/Or Subscribers:** Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participants ultimate responsibility and accountability for all users or subscribers affiliated with the Participant. (Adopted 4/92) **O**

**Section 8 Meetings:** The meetings of the Participants in the Service or the Board of Managers/Directors of the MLS for the transaction of business of the Service shall be held in accordance with the provisions of the [Operating Agreement of Western New York Real Estate Information Service, LLC](#). **R**

## Enforcement of Rules or Disputes

**Section 9 Consideration Of Alleged Violations:** The [Rules & Regulations Committee of Western New York Real Estate Information Service, LLC](#) shall give consideration to all written 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 (Board of Directors). (Amended 12/18) **M**

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. (Amended 11/20) **M**

**Section 9.1 Violations Of Rules And Regulations:** If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the board of directors of the service, and if a violation is determined, the board of directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional

standards committee of the primary association in accordance with the bylaws and rules and regulations of the primary association of REALTORS® within twenty (20) days following receipt of the directors' decision. (Amended 11/96)

If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the board of directors of the MLS within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the professional standards committee of the primary association of REALTORS® 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 primary association of REALTORS®. (Amended 2/98) **M**

**Section 9.2 Complaints Of Unethical Conduct:** All other complaints of unethical conduct shall be referred by the Rules & Regulations Committee to the Secretary of the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's Bylaws. (Amended 11/88) **M**

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

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

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

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

**Section 9.4 MLS Rules Violations:** MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules. **M**

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

## Confidentiality of MLS Information

**Section 10 Confidentiality Of MLS Information:** Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants. (Amended 4/92) **M**

**Section 10.1 MLS Not Responsible For Accuracy Of Information:** The information published and disseminated by the service is communicated verbatim, without change by the service, as filed with the service by the participant. The service does not verify such information provided and disclaims any responsibility for its accuracy. Each participant agrees to hold the



service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.  
**R**

## **Ownership of MLS Compilation\* and Copyright**

**Section 11** By the act of submission of any property listing content to the MLS the participant represents and warrants that he or she is fully authorized to license the property listings 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 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.

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. (Amended 12/18) **M**

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

**Note:** The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as participants and subscribers hosting an IDX display.

**Note:** One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
2. Develop and post a DMCA-compliant website policy that addresses repeat offenders.
3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
4. Have no actual knowledge of any complained-of infringing activity.
5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP’s copyright infringement liability. For more information see 17 U.S.C. §512. (Adopted 11/15) **I**

**Section 11.1** All rights, title, and interest in each copy of every multiple listing compilation created and copyrighted by the MLS and in the copyrights therein, shall at all times remain vested in the MLS. **R**

**Section 11.2 Display:** Each Participant shall be entitled to lease from the MLS a number of copies of each Service 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 MLS.

Participants shall acquire by such lease only the right to use the Service compilation in accordance with these Rules. **M**

## Use of Copyrighted MLS Compilations

**Section 12 Distribution:** Participants shall, at all times, maintain control over and responsibility for each copy of any MLS Compilation leased to them by Western New York Real Estate Information Service, 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 Western New York Real Estate Information Service Multiple Listing Service is strictly limited to 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 Western New York Real Estate Information Service Multiple Listing Service where access to such information is prohibited by law. (Amended 4/92) **R**

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

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

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

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

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

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

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

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

## Use of MLS Information

**Section 13 Limitations On Use Of MLS Information:** Information from MLS compilations of current listing information,

from statistical reports, and from any sold or comparable report of the MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

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

**Based on data from the New York State Alliance of MLS's for the period *(date)* through *(date)* using this criteria: (show search criteria). M**

**Note –A subscriber may post their own production data and company statistics with their participant's permission but, may not post agent comparison reports which include other agents' production data.**

## Changes in Rules and Regulations

**Section 14 Changes In Rules And Regulations:** Amendments to the rules and regulations of the service shall be recommended for approval to the Board of Managers by the rules and regulations committee. **M**

## Arbitration of Disputes\*

\*Only adopt this section if the association's MLS is open to nonmember participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere). If adopted, Section 15 may not be modified

**Section 15 Arbitration of disputes: This section is not adopted NYSAMLS's. O**

## Standards of Conduct for MLS Participants\*\*

\*\*Only adopt the following standards of conduct if the association's MLS is open to nonmember participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere). Any of the standards of conduct, if adopted, may not be modified.

**Section 16 Standards of conduct of MLS Participants: This section is not adopted for NYSAMLS's. O**

## Orientation

**Section 17 Orientation:** Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. (Amended 11/04) **M**

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 enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (Amended 11/17)

## Internet Data Exchange ("IDX")

**Section 18** IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listing. (Amended 5/17) **M**

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

where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. (Amended 5/17) **M**

**Section 18.2 Participation: M**

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. (Amended 11/09)

**Section 18.2.1** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitor/ensuring compliance with applicable rules and policies. (Amended 5/12) **M**

**Section 18.2.2** MLS Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 5/12) **M**

**Section 18.2.3** 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). (Amended 5/17) **M**

Note: All Active listings that belong to IDX Participants, and are marked 'Y' in the 'IDX' field, from the following Property Types: Single Family Residential, Multifamily, Condo/Townhouse, Commercial, Apartment and Land. Listings that are marked 'N' in the "IDX" Y/N field are prohibited from display on an IDX website.

**Section 18.2.4** Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family or type of listing (e.g., exclusive right-to-sell, or exclusive agency); Selection of listings displayed on any IDX site must be independently made by each participant. (Amended 11/21) **M**

**Section 18.2.5** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve (12) hours. (Amended 11/14) **M**

**Section 18.2.6** Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 5/12) **M**

**Section 18.2.7** Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 5/12) **M**

**Section 18.2.8** Any IDX display controlled by a participant or subscriber that

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

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. (Adopted 5/12) **M**

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

specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 5/12) **M**

**Section 18.2.10** An MLS participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14) **M**

**Section 18.2.11** Participants shall not modify or manipulate information relating to other participants listings. MLS participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. (Adopted 05/15) **M**

**Section 18.2.12** All listings displayed pursuant to IDX shall identify the listing firm 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.\* **M** (Amended 11/21, implementation deadline 9/1/2022)

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

**Note:** All of the following rules are optional but, if adopted, cannot be modified. Select those rules which apply to your IDX program and number the sections accordingly

**Section 18.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS Participants and users (e.g., showing instructions and property security information may not be displayed on IDX sites. (See IDX Field List.) (Amended 11/21) **O**

**Section 18.3.1.1** The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 5/12) **O**

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

**Section 18.3.4** Not adopted by NYSAMLS's All listings displayed pursuant to IDX shall identify the listings agent. **O**

**Section 18.3.5** 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. **O**

**Section 18.3.6** Deleted by NAR 2006.

**Section 18.3.7** All listings displayed pursuant to IDX shall show that CNYIS, Inc., UNYREIS and WNYREIS as the source of the information. 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. (Amended 5/12) **O**

**Section 18.3.8** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use and 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 by 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. (Amended 5/12) **O**

**Section 18.3.9** The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than five hundred (500) listings or five percent (50%) of the listings available for IDX display, whichever is fewer. (Amended 11/17) **O**

**Section 18.3.10** The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MLS. **O**

**Section 18.3.11** Listings obtained through IDX feeds from REALTOR Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLS's, 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. (Amended 11/14) **O**

**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 the 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 of display. (Adopted 11/14)

**Section 18.3.12** Display of expired and withdrawn listings\* is prohibited. (Amended 5/21) **O**

**Section 18.3.13** Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited. **O**

**Note:** The following Sections 18.3.14 and 18.3.15 are for participants with a "persistent" download (i.e., where the MLS database resides on participants' servers) of the MLS database.

**Section 18.3.14** Participants are required to employ appropriate security protection such as firewalls on their websites and displays provided that any security measures required may not be greater than those employed by the MLS. (Amended 5/12) **O**

**Section 18.3.15** Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. (Amended 5/12) **O**

**Section 18.3.16** Not previously adopted by NYSAMLS's

**Section 18.4 Service Fees and Charges:** Service fees and charges for participation in IDX shall be as established annually by the Board of Managers. Refer to Appendix A fees. (Adopted 11/01, Amended 5/05) **O**

## Virtual Office Websites (VOWs)

### **Section 19.1 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. **M**
- 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 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. **M**

- 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. **M**
- 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. **M**

### **Section 19.2**

- a. The right of a participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices. **M**
- b. Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX). **M**
- c. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant’s VOW. **M**

### **Section 19.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
  - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The participant must obtain the name of and a valid 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. **M**
- 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. **M**
- 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. **M**
- 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. **M**
- 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. **M**
- 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. **M**

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

**Section 19.5** - 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. **M**

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

**Section 19.6**

- a. A participant’s VOW shall not display 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. **M**
- 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. **M**
- 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. **M**

<b>Seller Opt-out Form</b>
1. Check one.



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

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

\_\_\_\_\_  
Initials of Seller

### **Section 19.7**

- 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. **M**
- 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. **M**

**Section 19.8** - A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within 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. **M**

**Section 19.9** - A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days. **M**

**Section 19.10** - 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. **M**

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

**Section 19.12** - A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property. (*Amended 5/21*) **M**

**Section 19.13** - A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies. **M**

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

**Section 20 - Other Rules:** Each Participating MLS may provide other services (Electronic Keys, keyboxes, etc.) which will append additional rules.

<b>M</b> – Mandatory by NAR	<b>R</b> – Recommended by NAR, adopted by NYSAMLS's	<b>O</b> – Optional, adopted by NYSAMLS's
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