

RULES & REGULATIONS of the
INDIANA REGIONAL MULTIPLE LISTING SERVICE &
MLS OF ELKHART COUNTY INC. AMENDMENT
Adopted March 6, 2014 – Amended May 18, 2015 Amended April 2016

Section 0.1 “Multiple Listing Service” or “MLS.” A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced, by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker’s performance as procuring cause of the sale (or lease).

Section 0.2 Service area or jurisdiction. The area within which the service shall function, its “service area” or “jurisdiction,” shall at all times be coextensive with the state of Indiana.

Listing Procedures

Section 1 Listing Procedures

Listings of real property of the following types, which are listed subject to a real estate broker’s license, and are located within the territorial jurisdiction of the multiple listing service, and are taken by participants on exclusive right-to-sell listing contracts and exclusive agency listing contracts shall be delivered to the multiple listing service within 72 hours after all necessary signatures of seller(s) have been obtained:

- a. single family homes
- b. vacant lots and acreage for sale or exchange
- c. multi-family buildings for sale or exchange
- d. business/commercial/industrial buildings for sale or exchange
- e. farms/agricultural
- f. mobile homes with real estate

Note 1: The multiple listing service does not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although 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 interests of the public and the participants
- assure that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)

The Multiple Listing 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 the buyer’s agents, or both. (Amended 5/15)

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

The service does not accept **net listings**. **Open listings** are not accepted.

The **exclusive right-to-sell** listing is the conventional form of listing submitted to the multiple listing service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on 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 symbol from 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 ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations.

Note 2: The multiple listing service does not regulate the type of listings its members may take. This does not mean that the service must accept every type of listing. The service does not accept open listings (unless acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But the service leaves its members free to accept listings to be handled outside the multiple listing service.

Note 3: The service accepts exclusively listed property that is subject to auction.

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:

- residential • motel-hotel
- residential income • mobile homes attached to real estate
- subdivided vacant lot • mobile home parks
- land and ranch • commercial income
- business opportunity • industrial

Section 1.1.1 Listing Subject to Rules and Regulations of the Service

Any listing taken on a contract to be filed with the multiple listing service is subject to the rules and regulations of the service upon signature of the seller(s).

Section 1.2 Detail on Listings Filed with the Service

A listing agreement or property data form, when filed with the multiple listing service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

Section 1.2.1 [RESERVED]

Section 1.2.2 [RESERVED]

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 signed by the seller that he does not desire the listing to be disseminated by the service.

Section 1.4 Change of Status of Listing

Any change in listed price or other change in the 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 (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing 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 multiple listing service may remove the listing at the request of the seller.

Section 1.6 Contingencies Applicable to Listings

Any contingency or conditions of any term in a listing shall be specified and noticed to the participants.

Section 1.7 Listing Price Specified

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

Section 1.8 Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the multiple listing service.

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.

Section 1.10 Expiration of Listings

Listings filed with the multiple listing service will automatically be removed from the compilation of active 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. If notice of renewal or extension is received after the listing has been removed from the compilation of active 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.

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.

Section 1.12 Jurisdiction

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

Section 1.13 Listing of Suspended Participants

When a participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a participant has been suspended from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise his clients.

Section 1.14 Listing of Expelled Participants

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

Section 1.15 Listing 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.

Section 1.16 Listing Agent Must be Subscriber: In order for a listing to be included in the MLS system, the listing agent must be a Subscriber affiliated with a Participant of the MLS who is a current member in good standing. Co-Exclusive listings with a Non-

Participating office (or Non-Participating Brand Offices) of the MLS service are not accepted. A fine of \$350 will be assessed to the Participant if the co-exclusive listing is entered into the MLS system.

Section 1.17 Documentation Upon Request: All MLS documentation must be provided immediately upon request. The listing broker grants the MLS permission to audit listing files to determine compliance with the MLS Rules & Regulations for up to one year past the closing or expiration date of the listing. If the Participant does not comply with an audit request a fine of \$100 per day thereafter may be assessed and/or access to MLS data for that firm may be suspended until such compliance is obtained.

Section 1.18 Use of Marketing in Remarks Field: It is the policy of the MLS that the Listing Remarks Section in the MLS System must only be used for information that is descriptive and relevant to an accurate description of the listed property. The MLS does not permit the placement of any contact information including listing agent, broker name, phone number, company names, email addresses, web addresses, or other information of this nature that does not serve to describe the listed property is a violation. Any violation of this policy shall be considered a violation of the MLS Rules and IDX Policies.

Section 1.19 Properties Subject to Auction. A listing broker may submit a listing of an eligible listing type that is subject to auction only if it displays a definite listing price and the circumstances under which cooperating brokers will be compensated in the event of a successful closing. The listing record for a property subject to auction must specify the type of auction (for example, absolute, minimum bid, or reserve) and license number of the auctioneer.

Selling Procedures

Section 2 Showings and Negotiations

Appointments for showings and negotiations with the seller for the purchase of listed property filed with the multiple listing service shall be conducted through the listing broker, except under the following circumstances:

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

Section 2.1 Presentation of Offers

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

Section 2.2 Submission of Written Offers

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

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

Section 2.3 Right of Cooperating Broker in Presentation of Offer

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

Section 2.4 Right of Listing Broker in Presentation of Counter-offer

The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except 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.

Section 2.5 Reporting Sales to the Service

Status changes, including final closing of sales and sales prices, shall be reported to the multiple listing service by the listing broker within 48 hours after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 48 hours after receiving notice from the cooperating broker.

Note 1: The listing agreement of a property filed with the MLS by the listing broker must 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 must also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants.

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. (Amended 5/15)

In states where the actual sales prices of completed transactions are not publicly accessible, failure to report sales 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.

Reporting of the sale price is required by the MLS. 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.

Note 3: As established in the Virtual Office Website ("VOW") policy, sale prices can only be categorized as confidential in states where the actual sales prices of completed transactions are not accessible from public records. (Amended 5/15)

Section 2.6 Reporting Resolution of Contingencies

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

Section 2.7 Advertising of Listings Filed with the Service

A listing shall not be advertised by any participant other than the listing broker without the prior consent of the listing broker.

Section 2.8 Reporting Cancellation of Pending Sale

The listing broker shall report immediately to the multiple listing service the cancellation of any pending sale, and the listing shall be reinstated immediately.

Section 2.9 Disclosing the Existence of Offers

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

Section 2.10 Availability of Listed Property

Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

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.

Prohibitions

Section 4 Information for Participants Only

Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.

Section 4.1 For Sale Signs

Only the for sale sign of the listing broker may be placed on a property.

Section 4.2 Sold Signs

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

Section 4.3 Solicitation of Listing Filed with the Service

Participants shall not solicit a listing on property filed with the service unless such solicitation is consistent with Article 16 of the REALTORS' Code of Ethics, its Standards of Practice, and its Case Interpretations.

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.

Section 4.4 Use of the Terms MLS and Multiple Listing Service

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

Section 4.5 Property Advertised For Sale: Listings must be entered into the MLS within three (3) business days.

Division of Commissions

Section 5 Compensation Specified on Each Listing

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

established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

In filing a property with the multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. The compensation specified on listings filed with the listing service shall appear in one of two forms. The essential and appropriate requirement by an association multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

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

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

This 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 other specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

Note 1: The service does not require the listing broker to disclose the amount of total negotiated commission in his listing contract, and the service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The 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.

Note 3: The service makes no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

Note 4: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction.

Section 5.0.1 Disclosing Potential Short Sales

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing participants.

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.

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.

Section 5.0.2 Compensation Subject to Court Approval Listing brokers may 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.

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.

Section 5.2 Participant as Purchaser

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

Section 5.3 Dual or Variable Rate Commission Arrangements

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

Service Charges

Section 6 Service Fees and Charges

The following service charges for operation of the multiple listing service are in effect to defray the 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 to be determined by each IRMLS Founding Member and/or Member

Subscription Fees: One complete set of current listings shall be supplied to the participant upon payment of the application fee and the participation fee, and the participant shall be responsible for a subscription fee charged by each Local Board/Association. Additional sets of listings are to be supplied to each individual, employed by or affiliated as an independent contractor (including licensed or certified appraisers) with the participant who has access to and who utilizes the service.

IRMLS will charge Local MLS(s) a late fee for IRMLS LLC services and fees if not paid by due date as per the Operating Agreement. These charges will be reviewed by the IRMLS Board of Directors as needed and are subject to change. A 30 day notification will be provided of changes in fee late fees and administration of those fees.

Compliance with Rules

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:

Section 7 Compliance with Rules—Authority to Impose Discipline con't

- 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. *(Amended 3/15)*

Note: 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. *(Amended 03/15)*

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 fee 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

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 participant's ultimate responsibility and accountability for all users or subscribers affiliated with the participant. *(Adopted 4/92)*

Meetings

Section 8 Meetings

The meetings of the Founders of the service or the board of directors of the multiple listing service for the transaction of business of the service shall be held in accordance with the provisions of Article 7, bylaws of the service.

Enforcement of Rules or Disputes

Section 9 Consideration of Alleged Violations

The board of directors shall give consideration to all written complaints having to do with violations of the rules and regulations.

Section 9.1 Violations of Rules and Regulations

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or 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 association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the directors' decision.

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 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 association of REALTORS®.

Section 9.2 Complaints of Unethical Conduct

All other complaints of unethical conduct shall be referred by the board of directors of the service to the Founder Member or Member for appropriate action in accordance with the procedures established by the Board of Directors of the Founding Member or Member.

Confidentiality of MLS Information

Section 10 Confidentiality of MLS Information

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

Section 10.1 MLS not Responsible for Accuracy of Information

The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participants. The Service does not verify the 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.

Ownership of MLS Compilation and Copyright

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.

Section 11

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

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

One safe harbor limits the liability of an OSP that hosts a system network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This 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 MLS's, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS participant, subscriber, or other individual or entity.
2. Develop and post a DMCA-compliant website policy that addresses repeat offenders
3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove the 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

**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 books, loose-leaf binder, computer database, card file, or any other format whatsoever.*

Section 11.1

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the IRMLS and in the copyrights therein, shall at all times remain vested in the IRMLS.

Section 11.2

Each participant shall be entitled to lease from the IRMLS a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the association. This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

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

Use of Copyrighted MLS Compilation

Section 12 Distribution

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the IRMLS, 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 an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association multiple listing service where access to such information is prohibited by law.

Section 12.1 Display

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

Section 12.2 Reproduction

Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:

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

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 valuations on a particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Amended 3/15)

Use of MLS Information

Section 13 Limitations on Use of MLS Information

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

Based on information from the IRMLS from the period *(date)* through *(date)*.

Section 13.1 Confidential Information: A participant shall not make available or display to prospective purchasers, buyers, or tenants any of the following:

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

Section 13.2 A Participant shall cause any listing that is distributed to prospective purchaser or buyers to identify the name of the listing firm in a readily visible color, in a reasonable prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

Section 13.3 A Participant shall limit the number of listings distributed to prospective purchasers or buyer to not more than 100 current listing and not more than 50 sold, or pending ("under contract") listings in response to any inquiry.

Changes in Rules and Regulations

Section 14 Changes in Rules and Regulations

Amendments to the rules and regulations of the service shall be by consideration and approval of the board of directors of the multiple listing service, subject to final approval by the board of directors of the Founding Members of the IRMLS.

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.

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 additional training remotely.

Section 18 IDX Defined

IDX affords MLS participants the ability to authorize limited electronic display of their listings by other participants.

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.

Section 18.2 Participation

Participation in IDX is available to all MLS participants who are REALTORS[®] who are engaged in real estate brokerage and who consent to display of their listings by other participants.

IDX Agents will follow the decision of their *IDX* Broker with regard to participation in *IDX*. Under no circumstances may an *IDX* Agent operate an *IDX* site without written consent of their *IDX* Broker. Agents operation an *IDX* site shall do so under the *IDX* Broker's consent and control, using either the approved MLS vendor-provided *IDX* Solution or the Broker's custom-developed *IDX* solution.

Section 18.2.1

Participants (and Subscribers, with Participant's written consent) must notify the MLS of their intention to display *IDX* information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

Section 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.

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).

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), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any *IDX* site must be independently made by each participant.

Section 18.2.5

Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve hours. Amended 2/18/2015

Section 18.2.6

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

Section 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.

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.

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.

Section 18.2.10

A MLS Participant (or where permitted locally, a MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available for him or her MLS IDX feeds provided all such displays are consistent with IDX rules, and the MLS participant (or MLS Subscriber) holds participatory rights in those MLS's. As used in this policy, "co-mingling" means that consumers are able to execute in a single property search of multiple IDX feeds, resulting in the display of IDX information from each of the MLS's on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. M Amended 2/18/2015.

Section 18.3 Display

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

Section 18.3.1

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

Section 18.3.1.1

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

Section 18.3.2

Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS 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. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

Section 18.3.3

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

Section 18.3.4

All listings displayed pursuant to IDX shall identify the listing agent.

Section 18.3.5

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

Section 18.3.6 Deleted November 2006

Section 18.3.7

All listings displayed pursuant to IDX shall show the MLS 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.

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, that it may not be used for any purpose other than to identify

prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Section 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 one hundred (100) listings or five percent (5%) of the listings available for IDX display, whichever is fewer.

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.

Section 18.3.12 (Amended January 2016)

*Display of expired and withdrawn listings are prohibited. Sold and Pending Listings may be displayed. (1/1/16)

Note: if “sold” information is publicly accessible, display of “sold” listings may not be prohibited.

Section 18.3.13

Display of seller’s(s’) and/or occupant’s(s’) name(s), phone number(s), and e-mail address (es) is prohibited.

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.

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.

Section 18.3.16

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

Section 18.4 Service Fees and Charges

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

Virtual Office 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.
- 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.
- c. “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.
- d. As used in Section 19 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

Section 19.2

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

Section 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.
- b. The participant must assure that each Registrant’s password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each

Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

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

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

i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant

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

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

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

v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database

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

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

Section 19.4

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

Section 19.5

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

Section 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.

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

Seller Opt-Out Form

1. Please check either Option a or Option b

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

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

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

initials of seller

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

Section 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.

b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

Section 19.8

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

Section 19.9

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

Section 19.10

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

Section 19.11

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

Section 19.12

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

Section 19.13

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

Section 19.14

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

Note: Adoption of Sections 19.15 through 19.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on participants' use of MLS listing information in providing brokerage service through all other delivery mechanisms.

Section 19.15

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

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

Section 19.16

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

Section 19.17

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

Section 19.18

A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

Section 19.19

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than **100** current listings and not more than **50** sold listings in response to any inquiry.

Section 19.20

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

Section 19.21

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

Section 19.22

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

Section 19.23

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

Section 19.24

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

Section 19.25

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

MLS of Elkhart County Amendment to IRMLS Rules & Regulations

Adopted March 6, 2014

Amended March 5, 2015

SECTION 1 LISTING PROCEDURES

ECMLS Participants will not be required to submit copies of every listing contract to the MLS unless the contract falls in the following categories: Late Input, Quiet Listing, or *Listing Contract Audit. Listing contracts in these categories must be submitted to the MLS office within seven (7) days of obtaining seller's signature or a \$25 late fee will be incurred. * In the case of an audit, the Participant will be required to submit a copy of the listing contract to the MLS office within two (2) business days. If the MLS does not receive the listing contract with two (2) business days, the Participant may be subject to further fines. The listing will be reinstated upon compliance. (Amended 5/15)

SECTION 1.2 DETAIL ON LISTINGS FILED WITH THE SERVICE

A listing agreement and profile sheet, when filed with the MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the Profile Sheet. A Property Data Profile Sheet is required as approved by the MLS and the seller or Participant must certify that the information on the Profile Sheet is true and accurate to the best of their knowledge and belief. The MLS disclaims any and all liability for the publishing of any misinformation, unannounced deletions and exceptions or any errors common to the transactions and publishing of the detailed information. **A \$25.00 fine will be assessed monthly for each incomplete listing.** (An incomplete listing is one in which a starred item on the profile sheet is not filled in with complete and accurate information.) **Failure to disclose Special Designations in the MLS will incur a \$100 fine per violation.** (Amended 1/07)

IRMLS SECTION 1.18 Use of Marketing in Remarks Field (PERSONAL PROMOTION)

Personal promotion in the MLS is not permissible and includes personal branded virtual media. Only information pertaining to the listed property will be allowed in the MLS. The MLS staff is authorized to remove personal promotion language in violation of this rule and issue a \$100 fine to the listing office. Exceptions include website information regarding auctions and additional documents pertaining to the listing. (Amended 2/08)

Note: Virtual Tours in the MLS must be unbranded. Unbranded is defined as void of any identification of the listing office, broker or agent.

SECTION 1.2.B MANDATORY PHOTO

Every listing in the MLS must have a photo. The primary photo will be uploaded when the listing is entered. Listings input without a photo will incur a \$25.00 fine. Fines will be issued for any photo not uploaded within one business day and will be charged each month until the photo is uploaded. Seller request for exclusion of the listing photo must be signed by the seller and submitted to the MLS to avoid the fine. (Amended 7/11)

Photos/digital images submitted to the MLS shall be limited to images of the listed property, floor plans of the listed property or renderings of the listed property. Photos/digital images shall not contain user/office contact information such as names, phone numbers, email addresses or website addresses, virtual tour links or copyrights, including use of embedded, overlaid, or digitally stamped information.

By submitting photos/digital images to the MLS, the Participant represents and warrants that he or she either owns the right to reproduce and display such photos/digital images or has procured such rights from the appropriate party, and has the authority to grant and hereby grants the MLS and the other Participants the right to reproduce and display the photos/digital images in accordance with these rules and regulations. Additionally, the Participants agree to indemnify the MLS in the event of any litigation relating to the reproduction of the photo by the MLS or other authorized entities. Use of photographic/digital media by a subsequent listing agent requires prior written authorization from the originating participant or other appropriate party with the legal right to reproduce and display such photos/digital images. (Amended 7/12)

SECTION 1.2.D VIRTUAL MEDIA

Virtual Media Must Be Unbranded. The MLS permits only "Unbranded" virtual tours or other virtual media to be attached to listings in the MLS System. "Unbranded" means that no aspect of the virtual media (which includes the web page on which the virtual media resides) can exhibit listing agent, office or broker name, phone number, email address, web address or other information of this nature that is not descriptive in nature and relevant to an accurate portrayal of the property being marketed.

The listing office will be given 48 hours to correct any virtual media violation after receiving notification from the MLS. Failure to make the change within 48 hours will result in the Virtual Media data being removed by MLS staff and the listing office will be assessed a \$100 fine.

SECTION 1.2.E PUBLIC REMARKS

Public Remarks should only be used to describe the property's physical and aesthetic characteristics. No contact information is permitted, including names, phone or fax numbers, talking ads, email addresses, or website addresses including virtual tours and transaction tracking URLs. No showing instructions are permitted including references to lockbox, alarm, gate, or other security codes, or the occupancy of the property. No information directed toward real estate agents or brokers, including compensation or bonuses offered to cooperating brokers may be shown in public remarks.

By submitting Public Remarks to the MLS, the Participant grants the MLS and the other Participants the right to reproduce and display the remarks in accordance to these rules. Public remarks will be included in listing displays on "third-party" websites through an approved RETS feed. All listing remarks must be in compliance with State and Federal law in all matters relating to the advertisement and sale of real property.

SECTION 1.2.F AGENT REMARKS

Agent Remarks should be used for confidential communications between Participants and shall not be available to the public. Agent Remarks may include, but not limited to, additional information related to the listed property, contact information, financial information, web addresses, mortgage company names, bonuses offered to cooperating brokers, short sale compensation information etc.

SECTION 1.3 EXEMPTED LISTINGS

If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take a quiet listing and such listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing must be accompanied by certification by the seller(s) that he does not desire the listing to be disseminated by the Service. *Failure to submit required listing contracts within the allotted time will incur a \$25 late fee.*

SELLING PROCEDURES

SECTION 2.A LISTINGS NOT AVAILABLE FOR SHOWING

The MLS exists to facilitate cooperation by Participants in the showing and sale of each other's listings. Listings entered into the MLS that are not available to show for a period of five (5) days or more must be noted in the Agent Remarks.

Section 2.5 Reporting Sales to Service:

Note 3: The ECMLS may provide ECMLS 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.

SECTION 2.5.A FAILURE TO CLOSE A PENDING

A Listing Broker that has pending listings over 365 days old in the MLS will be given 30 days to verify the accuracy of the status or to close out the listing. MLS Staff has the authority to cancel the listing if the Listing Broker fails to respond within the 30-day timeframe.

SECTION 2.5.B REPORTING NON MEMBER SALES DATA

Participants have the option of entering property data, photos and sales information for non-MLS properties sold by Participants. All non-MLS property sales information must be entered in the MLS within 7 business days after closing. Once entered, the Selling Office must notify the MLS office that a non-MLS property has been entered. MLS Staff will change the sold property information to a non-member status. Non-MLS properties entered in the MLS must comply with all listing input and closed rules.

SECTION 2.8 FIRST RIGHT OF REFUSAL

The listing broker or its agents shall disclose to any agent requesting permission to show a property, at that time, the fact that there is a right of first refusal existing on that property.

SECTION 2.9 BACK UP OFFERS

The listing broker, or his/her agents, who use the "Back Up Offers Accepted" sub-status in the MLS in response to inquires from buyers or cooperating brokers, shall with the seller's approval, disclose the existence of an accepted offer. Back Up Offers Accepted is an active sub -status and will expire upon its expiration date.

SECTION 4.6 MLS DATA DISTRIBUTION LIMITS

MLS Participants, Licensee's affiliated with a Participant and Licensed/Certified Appraisers may only provide comparable sales, listings, and/or pending information from the MLS data base which appears in the revised Appraisal report, BPO report or consultation. Release of additional data which does not appear in the report (such as added listings, grids, spreadsheets on other properties) is prohibited.

SECTION 6 SERVICE CHARGE

ECMLS OFFICE APPLICATION FEE

ECMLS will charge an Individual applying as a Managing Broker/Participant a one-time office application fee of \$1,000.00. The fee will accompany the application and is non-refundable.

ECMLS UNIT OF SERVICE

The Unit of Service includes partial services provided by the MLS, such as computer service. The monthly unit of service fee shall be determined by the Board of Directors. The Participant shall be billed a unit of service for each salesperson or subscriber, who has access to and use of the service, whether employed by or affiliated as an independent contractor with the Participant. Clerical Staff may have access to the MLS through the Participant's assumed identity or be billed for full clerical access for a reduced fee. (Amended 1/14)

ECMLS PROCESSING FEE

The Participant shall be charged a \$50.00 Processing Fee for any new agent or agent transferring to the Participant's office. This fee will appear on the Participant's monthly office bill.

ECMLS OFFICE REINSTATEMENT FEE

A \$200 reinstatement fee will be charged in lieu of the initial entrance fee provided the person applying was a Participant within the last six months and remained a Broker, Salesperson, or Appraiser affiliated with an active Participant of the service.

ECMLS WAIVER OF SERVICE:

TEMPORARY LEAVE: A temporary leave status is available to MLS Participants and agents (including spouse, dependent, immediate family) for medical* or military reasons. The Participant must complete and submit the Medical / Military Waiver Request form along with the appropriate documentation. Medical leave requires a personal statement signed by the individual with a specific amount of leave requested. Military leave requires a personal statement signed by the individual with a copy of the military orders. Through the Temporary Leave status, the monthly units of service will be suspended, the member will be given the option to remain active or change to inactive, and the member will be allowed to retain the MLS keypad. MLS processing fee will be waived upon

reinstatement. The Participant of the MLS Office must be a member in good standing and the individual must hold a current REALTOR membership to request a leave status. A waiver is available for up to 90-days maximum with extensions available under certain circumstances

Note: Medical leave is defined as a medical situation lasting longer than 30 days that affects the member's ability to perform duties. If the member remains active, the MLS will continue to incur charges from the vendor.

ECMLS BUSINESS COMMERCIAL INDUSTRIAL WAIVER

Effective January 15, 2004 the Board of Directors has the authority to exempt Business/ Commercial /Industrial Participants from payment of MLS Units of Service fees for any individual employed by or affiliated as an Independent contractor but who does not have access to and/or use of the Service. The exemption requires the Participant to submit a waiver request to the Board of Directors. The exemption period shall be in effect for a renewable 12-month period.

ECMLS AUCTIONEER WAIVER

The ECMLS Board of Directors has the authority to exempt Participants from payment of MLS Units of Service fees for any individual employed by or affiliated as an Independent contractor, who holds a valid Auctioneer license, does not list or sell real estate and who does not have access to and/or use of the service.

Participants with approved waivers will not be charged the Unit of Service fee for those individuals listed in the waiver. Those individuals will have no MLS rights or privileges. The exemption for any individual shall automatically be revoked upon the individual's utilization of the MLS Service in any manner.

SECTION 6.1 MLS BILLING PROCEDURE:

NONPAYMENT OF MLS ACCOUNT

The MLS Participant's account is due and payable by the 25th of each month. If said account is not paid in full by the 25th of the month, a 3% late charge or a minimum finance fee will be assessed. If the account, including the late charge, is not paid by the 25th of the next month, service will be terminated. A \$50 activation fee will be charged to reinstate service. After 90 days, the delinquent account will be processed in small claims court. In addition to the past due account balance, the Participant will be obligated to pay reasonable attorney fees in connection with the recovery of any past due account balance. The MLS Participant is considered personally responsible for any unpaid MLS balance and will not be granted MLS access through another office until the past due bill is paid in full.

AGENTS JOINING AFTER THE MONTHLY BILLING HAS BEEN ISSUED TO THE PARTICIPANTS

A prorated Unit of Service charge will be assessed to the MLS Participant for agents with his firm subscribing to the MLS after the monthly billing has been sent out. This charge will appear on the Participant's next monthly invoice.

SECTION 6.2 MLS UNITS OF SERVICE PAYMENT POLICY:

PAYMENT FOR UNITS OF SERVICE & SUPPLIES

All Units of Service fees and supply charges must be paid by the Participant by a company check.

HANDLING OF NSF CHECK OF MLS PARTICIPANT

If a Participant has more than one check returned for insufficient funds within a 12 month period, all subsequent billings must be paid for in cash or by certified check.

SECTION 9 MEETINGS

The meetings of the ECMLS Participants of the Service or the Board of Directors of the Service for transaction of business of the Service, shall be held in accordance with the provisions of Article 7, Bylaws of the Service.

SECTION 11.2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION

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

SECTION 15 CHANGES IN RULES AND REGULATIONS

Amendments to the ECMLS Rules and Regulations of the Service shall be by consideration and approval of the Board of Directors of the Multiple Listing Service, in accordance with the provisions of Article 10, Section B of the By-Laws of the Service, subject to the final approval by the Board of Directors of the Elkhart County Board of REALTORS® (shareholder).

SECTION 16 PENALTIES & FINES FOR VIOLATION OF MLS RULES & REGULATIONS:

Section 1.	Failure to enter listings into MLS (\$25.00)
Section 1	Failure to submit listing contract during audit (\$25.00)
Section 1.2	Incomplete Listing fields (\$25.00 per field)
	Failure to disclose any Special Designation Fields such as Contract Type (\$100 per field)
Section 1.16	Co-List Violation - \$350.00
Section 1.17	Failure to provide audit documents - \$100.00 per day
Section 1.18	Personal Promotion in MLS or Virtual Media (\$100)
Section 1.2.B	Failure to upload photo (\$25 1 st fine)
Section 1.2.D	Failure to remove Personal Promotions after notice (\$100)
Section 1.3	Exempt Listings – Failure to Submit Contract to MLS - \$25.00
Section 2.13	Failure to submit Quiet listing contracts (\$25 fee)

COMMON LOCK BOX SYSTEM OF THE MLS OF ELKHART COUNTY

The MLS of Elkhart County is the administrator and owner of the Lock Box System. The MLS leases the Lock Box System from an approved vendor and offers authorized persons access to electronic lock boxes, herein referred to as a lock box, and electronic devices/software to operate the lockboxes, herein referred to as Key Service. The MLS adopted NAR's lock box security requirements as outlined in the MLS Handbook along with the following local requirements:

Participation in the Key Service offered by the MLS of Elkhart County is voluntary and on an individual basis only. Key sharing is not permitted in any form except as allowed by *NAR policy.

Sharing of a keypad or key service with a non member or member who does not lease the Key Service is strictly prohibited and in direct violation of both local and national rules. Members may not lend or share their key with any individual or company including non-member real estate licensees or appraisers who are not members or do not lease the Key Service. Violation of the rule includes a fine not to exceed \$2500.00 and a 12 month maximum suspension of service.

**NAR Policy does allow a Broker/Participant to lease an extra key for use by an agent whose keypad has failed. The Participant is not allowed to give the key to agents who choose not to lease a key or to any other individual for any reason except for keypad service failure.*

SECTION 20 AUTHORIZED PERSONS

Key Service is available to Participants, and their salespeople (and licensed or certified appraisers affiliated with participants) and persons who are authorized by the MLS Board of Directors, including non-member licensees who are affiliated with REALTOR® members and Affiliate members appropriately applying. No one shall be required to participate in the Key Service. (Amended 1/13)

SECTION 20.1 ISSUANCE PROCEDURES

Before Key Service will be activated, the individual licensee affiliated with the Participant shall sign a written agreement with the MLS stipulating the responsibilities and liabilities of both the licensee and the Participant. Payment of an annual lease fee, maintenance fee, and administration fee is required at the time of activation. The lease and maintenance fee will be determined annually thereafter by the Board of Directors. Service is transferrable pursuant to the terms set out in the lease contract. Effective January 1, 2006, a \$50 reinstatement fee will be charged to reactivate service turned off for nonpayment of annual fee. (Amended 1/13)

Before a lock box will be issued, the Participant shall sign a written agreement with the MLS stipulating the responsibilities to maintain a record of the location of each lock box and liabilities should boxes be lost or otherwise unaccounted for. Such liability is established at current cost of lock boxes plus shipping and handling, however, the MLS reserves the right to adjust this amount in

accordance with cost adjustments by the supplier. MLS Participants will receive an initial distribution of lock boxes equal to their active/pending listings MLS listings located in Elkhart County and contiguous Indiana counties for all property classes except Lots & Land plus *15% (10 box maximum). A 2 box minimum will be in place for qualifying offices. MLS Only offices will be issued lock boxes using the same formula for listings located in Elkhart County only. Requests for additional lockboxes must be in writing and should include the serial number and location of each lock box. Additional lockboxes will be allocated based on the initial allocation formula but MLS staff reserves the right to base the allocation on available inventory. A lockbox audit will be conducted annually and in conjunction with requests for additional inventory. MLS Staff reserves the right to request the return of lock boxes not in use. Participants will be charged for lock boxes not returned within twenty days following the conclusion of an audit. Additionally, Participants may receive a \$5 per lock box fee for lock boxes not returned in clean condition and/or without the shackle code attached. (Amended 3/13)

Participants who lease Lock Boxes but who do not lease the Key Service will be billed an annual Key box lease fee. Participants who do not use the Lock Boxes or lease the Key Service will not be billed. (Amended 1/13)

SECTION 20.2 RECORDS

The MLS shall maintain accurate records reflecting each Participant's lock box inventory and member's Key Service information. Following lists the minimum amount of information recorded: Date service was activated or lock box leased; Key Service or Lock Box number, pin number/shackle code, name of member/ office, and date lock boxes were returned or service inactivated. (Amended 1/13)

SECTION 20.3 LOSS OF KEY SERVICE: If the Key is lost, stolen or otherwise unaccounted for, the following procedures shall be followed before new Key Service will be activated:

- a. The Key Service holder will submit to the MLS a signed, notarized statement certifying the circumstances under which the Key Service was lost or stolen and a police report filed when appropriate. The annual lease fee will be forfeited and a new Key Service fee will be charged along with a \$150.00 non-refundable Lost/Stolen fee. A new lease agreement will be signed. (Amended 1/13)

SECTION 20.4 ANNUAL AUDIT

At least annually, the MLS shall conduct an audit to verify lock box inventory and Key Service holders. If evidence arises showing any serious compromise of security or at the Board of Directors discretion, the Key Service will be changed (Amended 1/13)

SECTION 20.5 UNAUTHORIZED ENTRY

Cooperating brokers, whether functioning as agents of potential purchasers or not, must contact the listing broker to disclose their agency status and to arrange appointments to show listed property even if the property has a lock box affixed unless the listing broker has given specific permission through information published in the MLS or otherwise to show the property without first contacting the listing broker. In the event of an unauthorized entry, the listing agent may file a complaint with the MLS against the cooperating agent. The procedure is as follows: (Amended 1/13)

First Complaint - Warning

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 1st Offense – Letter of warning – Documentation will be placed in Agent's file.

Second Complaint - Fine

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 2nd Offense – Letter of warning with \$50 fine – Documentation will be placed in Agent's file.

Third Complaint – Fine

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 3rd Offense – Letter of warning with \$100 fine – Documentation will be placed in Agent's file.

Fourth Complaint - Keypad privileges revoked

1. Written complaint, including report from lock box) must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Board's decision sent to Agent and Principal. 4th Offense – Key Service privileges revoked/fees forfeited – Documentation will be placed in Agent's file.

SECTION 20.6 OWNERS AUTHORIZATION

MLS Participant and salespersons must obtain written authorization from the property owner allowing Broker to place a lock box on a property. Nothing shall prevent the owner's right to refuse to have a lock box on his/her property. (Amended 1/13)

SECTION 20.6.1 MANDATORY LOCKBOX

Lock boxes may not be placed on a property without written authority from the seller. MLS requires placement of a MLS approved lock box on listed properties if any device giving access to real estate professionals and/or service providers is authorized by the seller and occupant and is placed on any Residential and Multi Family property listing submitted to the Elkhart County MLS. Failure to comply with this rule will result in a \$25.00 fine. Said fine will reoccur monthly without pro-ration until the lock box is properly placed on the property. (Amended 6/13)

SECTION 20.7 AUTHORIZED USE OF KEY SERVICE

MLS Participants, and their salespersons (and licensed or certified appraisers affiliated with Participants) are authorized to participate in the Key Service offered by the MLS of Elkhart County, Inc upon payment of fees and signing of Key Service Lease Agreement.

SECTION 20.8 UNAUTHORIZED USE OF KEY SERVICE

Members who voluntarily participate in the Key Service may not lend or transfer the Keypad/Service to any person or entity, or permit any person or entity, licensed or unlicensed, to use their Keypad/Service for any purpose whatsoever, except as provided by NAR policy. Complaints alleging unauthorized entry or Key Service sharing must be in writing, signed by the complainant, and filed with the MLS within seven days of the alleged violation. The complaint must state the nature of the violation, include the name of the alleged violator, the date and location of the violation, and contain supporting documentation (if any). The MLS President, or President-Elect in lieu of the President, will conduct a review to determine the merits of the complaint. (Amended 1/13)

Complaint Process:

1. Upon receipt of a complaint, MLS staff will forward a copy to MLS President, or President-Elect in lieu of the MLS President, to determine if the complaint has merit. The President will return a written assessment to the MLS staff within ten (10) days after receiving the complaint.
2. MLS Staff will forward a copy of the assessment to the Complainant. If the complaint is found to have merit the Respondent will receive a copy of the assessment and the complaint along with a request for response.
3. The Respondent will have ten (10) days after receiving the complaint to return a written response to the MLS office. Failure to respond within the ten (10) day timeframe can result in inactivation of the Respondent's Key Service pending Board review.
4. The MLS President or President Elect will present the complaint to a panel of 3 to 5 Board members appointed by the President immediately following the conclusion of the next scheduled Board meeting or a meeting called specifically for the purpose of considering the complaint. The Board members will make their decision based on the information submitted.
5. In the event the Respondent is found in violation, the Board may take the following action:
 - a. Issue a letter of warning
 - b. Issue a fine not to exceed \$2,500
 - c. Suspend Key Service privileges for a period of time to be determined by the Board but not to exceed 12 months
 - d. Any combination of the above 3 actions
6. The MLS Board of Directors reserves the right to forward any complaint to a Professional Standards Hearing panel which will also serve as an appeal body should the decision of the Board be appealed by the Respondent. All appeals must be in writing and submitted within 20 days of receipt of the decision.