



# **RMLS RULES & REGULATIONS**

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# **RMLS Rules and Regulations**

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**Authority.** The FARGO-MOORHEAD AREA ASSOCIATION OF REALTORS®, hereinafter referred to as FM REALTORS®, through its subsidiary, shall maintain a Multiple Listing Service, hereinafter referred to as RMLS, which shall be a separate lawful corporation of the State of North Dakota, all the stock of which shall be owned by the Fargo-Moorhead Area Association of REALTORS®.

**Purpose.** The RMLS as maintained as a subsidiary of FM REALTORS® is a means 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, customers and the public.

**Governing Documents.** The RMLS Board of Directors shall cause any Multiple Listing Service established to conform its Corporate Articles, Charter, Constitution, Bylaws, Rules, Regulations, Policies, Practices and Procedures at all times to the Constitution, Bylaws, Rules, Regulations and Policies of the NATIONAL ASSOCIATION OF REALTORS®. The FM REALTORS® Board of Directors shall appoint the RMLS Board of Directors which shall include the FM REALTORS® President, President-elect and Immediate Past President.

**Additional Governing Documents.** It is hereby declared that the business policies of the Fargo-Moorhead Area Association of REALTORS®, Article 8, BUSINESS POLICIES AND PRACTICES and Article 11, RMLS POLICIES, as set forth in the Policy & Procedure Manual of the Fargo-Moorhead Area Association of REALTORS®, and as said Article 8 and Article 11 may be amended from time to time, are hereby incorporated verbatim into these RMLS Rules and Regulations, as though fully set forth herein; provided, a determination that a particular business policy of the Fargo-Moorhead Area Association of REALTORS® may be inapplicable to the business of the RMLS shall not affect the validity of the incorporation of the other Fargo-Moorhead Area Association of REALTORS® business policies into these RMLS Rules and Regulations

## Definitions

As used in these RMLS Rules and Regulations, the following terms have the meanings set forth below:

**“Nonmember Participant”** means a Participant who is not a member of the National Association of REALTORS®.

**“Participant”** means any person who is principal, partner, corporate officer, or branch manager acting on behalf of a principal who meets the qualifications of participation as set forth in the Bylaws of REALTOR® Multiple Listing Service of the Fargo-Moorhead Area Association of REALTORS®.

**“REALTOR® Participant”** means a Participant who is a member of the National Association of REALTORS®.

**“Subscriber”** means each real estate or appraisal licensee affiliated with a Participant and entitled to access to the service, subject to the requirement to comply with all Service rules and to pay all applicable fees.

**"User"** means any person with credentials to log in to the service's systems, including Subscribers, unlicensed assistants, brokerage and appraisal administrative and accounting staff, etc.

## **Section 1 Listing Procedures**

### **Section 1: Listing Procedures**

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the service area of the multiple listing service, and are taken by Participants on an accepted contract (refer to Note 1) shall be entered into the multiple listing service, within two business days of the start date. Business/working days shall be considered any day of the year that the FM REALTORS® office is officially open, excepting weekends, holidays, and postal holidays.

- a) Previously occupied residential properties of four units or less located on ten acres or less in all incorporated areas which have been listed for sale and which are in the RMLS service area (Cass, Richland, Ransom and Sargent Counties in North Dakota. Clay, Norman, Wilkin, Becker, Hubbard, Mahnomon and Ottertail Counties in Minnesota.)
- b) At the option of the Participants, they may file with the RMLS any other type of real property or business opportunity which is listed provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a broker.
- c) Listings of property outside of the RMLS jurisdiction will be accepted if voluntarily submitted by a Participant, but are not required by the RMLS.
- d) When a Participant voluntarily files with the RMLS a construction project or conversion, Participant shall be required to file with the RMLS a listing for only one unit from the project. When that unit sells, the pending and final is reported in the usual manner. When another unit in the project is sold by a Participant through the RMLS, that unit shall be filed, pending and finalized in the usual manner. This same process shall be followed on the voluntary submission of vacant lots.
- e) Mobile homes and manufactured housing may be submitted to the RMLS at the option of the Participant. Participants and their licensees should refer to current statutes when listing and/or selling manufactured and mobile homes.

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

- may reserve the right to refuse to accept a listing form which fails to adequately protect the 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 service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to cooperate with other Participants of the multiple listing service acting as subagents, buyer agents, or both. (Amended 11/96)

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. (Amended 11/96)

The listing agreement shall not, directly or indirectly, establish any contractual relationship between the RMLS and a seller and/or a buyer.

The service may not accept **net listings** because they are deemed unethical and, in most states, illegal. **Open listings** are not accepted except where required by law because the inherent nature of an open listing. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.

The **exclusive right-to-sell** listing is the form of listing where the seller exclusively gives authorization to the listing broker to cooperate with other brokers in the sale of the property. (Amended 4/92)

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to cooperate with other brokers in the sale of the property, 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. (Amended 4/92)

Exclusive Right to Sell and Exclusive Agency listings with named prospects exempted shall be noted by entering the number of named prospects in the “agent remarks” field of the RMLS. Names of the owner’s prospects shall be included in the listing agreement but shall not be revealed to the Participants, except by the listing broker.

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

**Note 3:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the RMLS compilation of current listings.

## **Section 1.01 Clear Cooperation**

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

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

### **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). R

## **Section 1.2: Detail on Listings Filed with the Service**

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

A listing agreement or property data form, change form and any other form used by the listing broker in conjunction with the multiple listing service must be retained by the Participant and be available to the multiple listing service upon request (local).

### **Section 1.2.0 Accuracy of Listing Data**

A listing agreement Participants and Subscribers are required to submit accurate listing data and required to correct any known errors.

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

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

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

will be identified with an appropriate code or symbol (e.g., LR or LS) in RMLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property. (Adopted 5/01)

## **Section 1.3: Multiple Listing Options for Sellers**

Office Exclusive: Where the seller has directed the listing broker to not publicly market their property and to not disseminate it through the MLS to other MLS Participants and Subscribers, the Participant may then take the listing as an office exclusive exempt listing and such listing shall be filed with the MLS, subject to its local filing rules, but not disseminated to other MLS Participants and Subscribers.

Delayed Marketing: Where the seller has directed the listing broker to delay the public marketing of their property through IDX and syndication for (0) zero days. A delayed marketing exempt listing shall be filed with the MLS, subject to its local filing rules, and disseminated to other MLS Participants and Subscribers. The listing broker shall not be precluded from marketing the delayed marketing exempt listing in a matter consistent with the seller's choice.

Exempt Listing Disclosure: The filing of an exempt listing (office exclusive or delayed marketing) with the MLS must be pursuant to a certification, signed by the seller, obtained by the listing broker which Includes:

- disclosure about the professional relationship between the Participant and the seller;
- acknowledgement that the seller understands the MLS benefits they are waiving or delaying with the exempt listing, such as broad and Immediate exposure of their listing through the MLS; and
- confirmation of the seller's decision that their listing not be publicly marketed and disseminated by the MLS to other MLS Participants and Subscribers as an office exclusive listing or that their listing will not have Immediate public marketing through IDX and Syndication as a delayed marketing listing.

Multiple Listing Options for Sellers requirements only apply to listing types that are subject to mandatory submission pursuant to the MLS local rules.

Note 1: The Multiple Listing Options for Sellers policy Is designed to give consumers greater choice and flexibility in marketing their homes for sale. Each MLS has the unfettered local discretion in determining what Is most suitable for their marketplace regarding a Delayed Marketing Exempt listing which Includes adopting "0" days or to not Implement the Delayed Marketing aspects of the Multiple Listing Options for Sellers policy.

Note 2: MLS Participants must distribute Office Exclusive Exempt listings through the MLS to other MLS Participants and Subscribers within (1) one business day after the listing has been publicly marketed. See Section 1.01, Clear Cooperation.

#### **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 the RMLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his/her exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. (Adopted 11/96)

A copy of the signed agreement between the seller and the listing broker which authorizes the status change must be retained by the Participant and made available to the multiple listing service upon request (local).

#### **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 RMLS compilation of current listings, unless the property is subject to auction. (Amended 11/92)

### **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 current listings on the expiration date specified in the agreement, unless prior to that date the RMLS receives notice that the listing has been extended or renewed. (Amended 11/01)

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. (Amended 11/01)

### **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: Service Area**

Only listings of the designated types of property located within the service area of the RMLS are required to be submitted to the service. The service area of the RMLS includes: Cass, Richland, Ransom and Sargent Counties in North Dakota and Clay, Norman, Wilkin, Becker, Hubbard, Mahnomon and Ottertail Counties in Minnesota. Listings of property located outside the RMLS's service area will be accepted if submitted voluntarily by a Participant, but cannot be required by the service. (Amended 11/17)

### **Section 1.13: Listing of Suspended Participants**

When a Participant of the service is suspended from the RMLS for failing to abide by a duty (i.e., failing to comply with RMLS bylaws, RMLS rules and regulations, or other participatory obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the RMLS 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 RMLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from RMLS for failure to pay appropriate dues, fees, or charges, RMLS is not obligated to provide RMLS services, including continued inclusion of the suspended Participant's listings in the RMLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the RMLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his/her clients.



### **Section 1.14: Listing of Expelled Participants**

When a Participant of the service is expelled from the RMLS for failing to abide by a duty (i.e., RMLS bylaws, RMLS rules and regulations, or other participatory obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the RMLS 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 RMLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from RMLS for failure to pay appropriate dues, fees, or charges, RMLS is not obligated to provide RMLS services, including continued inclusion of the expelled Participant's listings in the RMLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the RMLS, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his/her clients.

### **Section 1.15: Listing of Resigned Participants**

When a Participant resigns from the RMLS, the RMLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the RMLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the RMLS, the resigned Participant should be advised, in writing, of the intended removal so that the resigned Participant may advise his/her clients.

### **Section 1.16: Property Addresses**

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

## **Section 2 Selling Procedures**

### **Section 2: Showings and Negotiations**

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

- a) the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- b) after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (Amended 4/92)

### **Section 2.1: Presentation of Offers**

The listing broker must make arrangements to present the offer as soon as possible or give the cooperating broker a satisfactory reason for not doing so. (Amended 4/92)

### **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 counteroffers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated. (Amended 11/05)

### **Section 2.3 Right of Cooperating Broker in Presentation of Offer**

The cooperating broker (subagent or buyer agent) or her/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/she 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. (Amended 4/92)

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, as soon as practical, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. (Adopted 11/19)

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

The listing broker or her/his representative has the right to participate in the presentation of any counteroffer made by the seller or lessor. He/she does not have the right to be present at any discussion or evaluation of a counteroffer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93)

### **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 by the second working day after signatures are obtained. 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 by the second working day after signatures are obtained and the listing broker shall report them to the RMLS by the second working day after receiving notice from the cooperating broker. (Amended 11/11)

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

### **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. (Amended 11/08)

## **Section 2.10: Availability of Listed Property**

Listing brokers shall not misrepresent the availability of access to show or inspect listed property. (Adopted 11/05)

# **Section 3 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.

# **Section 4 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 RMLS 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. (Amended 11/89)

## **Section 4.2: Sold Signs**

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. (Amended 4/96)

## **Section 4.3: Solicitation of Listings Filed with the Service**

Participants shall not solicit a listing on property filed with the service if doing so is inconsistent with exclusive representations or exclusive brokerage relationship agreements that other MLS Participants have with clients. All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS Participants shall ask prospects whether they are a party to an exclusive

representation agreement. MLS Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of the prospects.

Note: 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 RMLS 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.

#### **Section 4.4: Use of the Terms RMLS and Multiple Listing Service**

No RMLS 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 RMLS, or that they operate an RMLS. Participants, Subscribers and licensees affiliated with Participants shall not represent, suggest, or imply that consumers or others have direct access to RMLS databases, or that consumers or others are able to search RMLS databases available only to Participants and Subscribers. This does not prohibit Participants and Subscribers from representing that any information they are authorized under RMLS rules to provide to clients or customers is available on their websites or otherwise. (Adopted 11/07)

#### **Section 4.5: Services Advertised as “Free”**

MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation for any source for those services.

#### **Section 4.6: No Filtering of Listings**

Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of the brokerage or agent.

#### **Section 4.7: Other Deceptive Uses of Content**

No MLS Participant, Subscriber or licensee affiliated with any Participant may use any data content derived from the service in their advertising and representations to the public to engage in any of the following activities: (a) deceptive or unauthorized framing of real estate brokerage websites; (b) manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result; (c) deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; (d) presenting content developed by others without attribution or without permission; or (e) otherwise mislead consumers, including use of misleading images.

#### **Section 4.8: Nonmember Participants and “REALTOR®” Mark**

A Nonmember Participant is not permitted to use the “REALTOR®” word mark or logo, including any MLS logo that integrates the word “REALTOR®”.

## **Section 5 Prohibition on Offers of Compensation**

### **Section 5: No Compensation Specified on MLS Listings**

Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.

**Note 1:** The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).

**Note 2:** The multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

**Note 3:** Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale.

### **Section 5.0.0: Required Consumer Disclosure**

**Disclosures of Compensation:** MLS Participants and Subscribers must:

1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).
2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay.

### **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. (Amended 5/09)

### **Section 5.0.2 Written Buyer Agreement**

Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

- a. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source;
- b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.
- c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
- d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.

### **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. (Adopted 2/92)

## **Section 6 Service Charges**

### **Section 6.1: Service Fees and Charges**

The service charges for the multiple listing service are as stated in the schedule of fee and charges.

**Note 1:** A multiple listing service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by increased frequency of such payments.

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

### **Section 6.2: Fee Waivers**

MLS provide Participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that Participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated. (Amended 5/18 and 8/18 [Leadership Team])

During any period for which a licensee's fees are waived, the licensee shall refrain from using any of the services of RMLS, including:

- a. Using RMLS's systems, software, database, etc. This does not include accessing listing information of the licensee's own broker or of other brokers through the Participant's IDX site or elsewhere. It does include accessing such information on the Participant's VOW (which is for consumers' personal use.)

- b. Being identified as a listing agent on an active or pending property listing in this MLS.
- c. Use of any data feed from RMLS (except one that includes listings of only the licensee's broker).
- d. Using RMLS's data on an IDX or VOW website identified as the fee-waived licensee's site or page.
- e. Using RMLS's data in a valuation product or in any tool or product or service identified as coming from the fee-waived licensee.

RMLS may terminate the fee waiver upon notice to the Participant and the fee-waived licensee if RMLS determines that the fee-waived licensee has used any RMLS services. In that case, the fee-waived licensee immediately becomes a subscriber and any fees due to RMLS under its normal fee schedule for the current period become due and payable. In addition, RMLS may recover from the Participant all fees that the RMLS would have collected had the fee-waived licensee been a subscriber during the entire period of the waiver. After six months, Participant and Subscriber can re-certify the Subscriber to be a fee-waived licensee. In the event that the licensee moves to a new office while subject to a termination of a waiver, that office is ineligible for waivers during the pendency of the revocation of the waiver.

### **Section 6.3: Fees, Fines, Assessments**

Participants must pay all fees, fines and other assessments relating to the RMLS as per RMLS Bylaws and the RMLS Rules and Regulations.

**Note 1:** This should be a minimal charge based on actual costs of producing and distributing the information.

**Note 2:** Any combination of charges may be used if they are in accordance with the National Association's MLS Antitrust Compliance Policy Point No. 3. which prohibits a fee that is contingent on the sale of a listed property.

## **Section 7 Compliance with Rules**

### **Section 7: Compliance With Rules - Authority to Impose Discipline**

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

- a) letter of warning
- b) letter of reprimand
- c) attendance at RMLS 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 RMLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f) termination of RMLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Revised 11/14)

**Note:** A Participant (or User, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or User, where appropriate) is placed on probation

the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14)

**Note 2:** MLS Participants and Users can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by Participants and Subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. (Adopted 11/20)

### **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

**Note 1:** Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations. (Amended 11/88)

### **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 RMLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the User has signed an agreement acknowledging that access to and use of RMLS information is contingent on compliance with the rules and regulations. Further, failure of any User 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 affiliated with the Participant. (Adopted 4/92)

Note: Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal Users affiliated with RMLS Participants. (Adopted 4/92)

## **Section 8 Meetings**

### **Section 8: Meetings**

The meetings of the Participants in 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.



## **Section 9 Enforcement of Rules or Disputes**

### **Section 9: Considerations of Alleged Violations**

The board of directors shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a Participant, each Participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Board of Directors. (Amended 5/18)

When requested by a complainant, the RMLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the RMLS will appoint a representative to serve as the complainant. (Amended 11/20)

### **Section 9.1: Violations of Rules and Regulations**

If the alleged offense is a violation of the rules and regulations of the service, it may be administratively considered and determined by RMLS, and if a violation is determined, RMLS may direct the imposition of sanction in accordance with these rule. The recipient of such sanction may request a hearing before the RMLS board within twenty (20) days following receipt of a sanction. (Amended 11/96)

Alleged violations involving unethical conduct of REALTOR® Participants shall be referred to the professional standards committee of the association of REALTORS® where the REALTOR® Participant maintains membership for processing in accordance with the professional standards procedures of the association. (Amended 2/98)

### **Section 9.2: Complaints of Unethical Conduct**

All other complaints of unethical conduct or requests for arbitration against any REALTOR® Participant shall be referred by the board of directors of the service to the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. (Amended 11/88)

### **Section 9.3 Complaints of Unauthorized Use of Listing Content**

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

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

If the Board of Directors determines that the use of the content was unauthorized, the Board of Directors may issue a sanction pursuant to Section 7 of the RMLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after

transmittal of the decision. If the unauthorized use stems from a violation of the RMLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Board of Director's determination the alleged violation remains uncured (i.e., the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. (Adopted 5/18)

#### **Section 9.4 RMLS Rules Violations**

RMLS Participants may not take legal action against another participant for alleged rules violation(s) unless the complaining Participant has first exhausted the remedies provided in these rules. (Adopted 5/18)

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

### **Section 10 Confidentiality of RMLS Information**

#### **Section 10: Confidentiality of RMLS Information**

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

#### **Section 10.1: RMLS Responsibility for Accuracy of Information**

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

### **Section 11 Ownership of RMLS Compilation\* and Copyright**

*\*The term RMLS 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 RMLS the Participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the RMLS license to include the property listing content in its copyrighted RMLS 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 the listed property. (Amended 5/18)

Each Participant who submits listing content to the RMLS agrees to defend and hold the RMLS and every other Participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. (Adopted 5/18)

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

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

To qualify for this safe harbor, the OSP must:

- a) 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.
- b) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- c) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- d) Have no actual knowledge of any complained-of infringing activity.
- e) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
- f) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

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

## **Section 11.1**

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

## **Section 11.2: Display**

Each Participant shall be entitled to lease from the RMLS a number of copies of each RMLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay for each such copy the rental fee set by the Board of Directors.\*\*

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

*\*\*This section should not be construed to require the participant to lease a copy of the RMLS 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 RMLS and who does not, at any time, have access to or use of the RMLS information or RMLS facility of the association.*

## **Section 12 Use of Copyrighted RMLS Compilation**

### **Section 12: Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any RMLS compilation leased to them by the association of REALTORS®, and shall not distribute any such copies to persons other than Subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other Subscribers as authorized pursuant to the governing documents of the RMLS. 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 any right of access to information developed or published by the multiple listing service where access to such information is prohibited by law. (Amended 4/92)

### **Section 12.1: Display**

Participants and those persons affiliated as licensees with such Participants shall be permitted to display the RMLS 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 RMLS compilation.

### **Section 12.2: Reproduction**

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

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

*\*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 RMLS 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.*

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

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

Any RMLS 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 particular properties for clients and customers. Any RMLS 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 05/14)

## **Section 13 Use of RMLS Information**

### **Section 13.1: Limitations on Use of RMLS Information**

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

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

*Based on information from the association of REALTORS® (alternatively, from the \_\_\_\_\_ MLS) for the period (date) through (date). (Amended 11/97)*

### **Section 13.2: Solicitation and Client Contacts**

No Participant may use information obtained from listing brokers' offer to cooperate made in the service to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by the listing broker.

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

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

The following types of solicitations are prohibited: Telephone or personal solicitations of property owners who have been identified by a real estate sign, the MLS compilation, or other information service as having exclusively listed their property with another Participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through the MLS compilation.

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

## **Section 14 Changes in Rules and Regulations**

### **Section 14: Changes in Rules and Regulations**

The RMLS Board of Directors may amend these Rules and Regulations according to Article 10.1 of the RMLS Bylaws 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 Fargo-Moorhead Area Association of REALTORS® (shareholder).

## **Section 15 Local Policies**

### **Section 15.1 Photos**

An exterior front photo of previously occupied residential property must be in flexmls as the primary photo at the time the listing is published in flexmls except where sellers expressly direct that photographs or other graphic representations of their property not appear in RMLS compilations. If under construction or to be built, primary photo must be a line drawing, rendition, or photo of actual lot on a property to be built or under construction. Photos of models may be included but may not be primary photo.

### **Section 15.2 Seller Name**

The name of the Seller(s) in the “owner” field of the RMLS and showing instructions shall be required on each listing unless the Seller(s) requests withholding of their name in writing.

### **Section 15.3 Participant Vs. Primary Listing Agent for RMLS Participation**

A Participant is known as the Broker of Record for a firm and must participate in RMLS for any of their affiliated agents to subscribe to the RMLS. The “primary” listing agent is either the broker or an agent who works under the Broker of Record in the same firm and is the agent who has entered into an agreement with a seller. The primary listing agent must also be a subscriber in order for their listings to appear in the RMLS. A Participant may not enter listings in lieu of the “primary” listing agent becoming a paid subscriber. Approved 1-2019

### **Section 15.4 Complaints and Appeals**

Complaints and appeals must be in writing and will be placed on the next meeting agenda of the RMLS Board of Directors unless the matter may be handled administratively by the RMLS President and CEO.

### **Section 15.5 Recommendations and Requests For Changes**

Recommendations and requests for changes to the RMLS database, Rules or Procedures shall be made in writing by the Participant and will be placed on the next agenda of the RMLS Board of Directors.

### **Section 15.6 Comparable Sales Information**

The Association Office staff will not provide comparable sales information to the general public. Persons making such a request will be advised to contact a Participant with staff making no reference to any individual or company.

### **Section 15.7 Referrals**

The Association Office staff will not provide referrals to specific agents to the general public.

### **Section 15.8 Fees Refund**

No refund of fees paid to RMLS shall be given for any reason.

### **Section 15.9 Unlicensed Staff Access**

The RMLS allows for unlicensed staff users, which are defined as individuals under the direct supervision of an MLS Participant or Subscriber that perform clerical and administrative tasks, and are considered “Users”. Unlicensed staff users may have access to the RMLS information solely under the direction and supervision of the Participant. Each Participant shall provide the RMLS with a list of all clerical users employed by or affiliated as independent contractors with the Participant and shall immediately notify the RMLS of any changes, additions or deletions from the list. Participants are allowed one paid unlicensed staff access for each 25 agents. Additional unlicensed staff users are eligible for RMLS access at a reduced fee as determined by the RMLS Board of Directors.

### **Section 15.10 Lock Box System**

The Supra iBox BTLE and eKEY system, hereinafter referred to as Supra, is the designated lockbox system. eKeys hereinafter referred to as Key, may be “leased” to each RMLS Participant, Participant’s licensees on RMLS and licensed or certified appraisers belonging to RMLS, all referred to as Keyholders. All Keyholders must agree, in writing, to be bound by the rules and procedures governing the Supra system. Keys may be available to others who the RMLS Board of Directors determine are eligible to access listed property, provided they agree

in writing to the rules and procedures of RMLS. A fee as determined by the RMLS Board of Directors will be assessed quarterly to each RMLS Participant for the number of Keyholders in the Participant's firm.

The Key is to be used only by the Keyholder to whom it is issued.

Participant shall immediately notify FM REALTORS® RMLS in writing, of the resignation from RMLS of any Keyholder in Participant's firm. Supra will then be deactivated for that Keyholder by FM REALTORS® RMLS staff.

RMLS may refuse to sell or lease lock box keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 5/17)

- A. RMLS determines that the conviction(s) relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts: and (Amended 5/17)
- B. RMLS gives the individual an opportunity to provide and the RMLS must consider mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:
  - the individual's age at the time of the conviction(s);
  - nature and seriousness of the crime;
  - extent and nature of past criminal activity;
  - time elapsed since criminal activity was engaged in;
  - rehabilitative efforts undertaken by the applicant since the conviction(s);
  - facts and circumstances surrounding the conviction(s); and
  - evidence of current fitness to practice real estate. (Amended 5/17)

RMLS should be sure to evaluate individuals uniformly, and avoid making exceptions for one individual while denying exception to another individual with a criminal history. Amended 5/17)

RMLS may suspend the right of lock box keyholders to use lock box keys following their arrest and prior to a final determination on any such charge if, in the determination of the RMLS, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk (Amended 5/17).

iBoxes are owned by FM REALTORS® RMLS and issued to Participants based on the number of the firm's active listings. Participant may request additional iBoxes and, from time to time, may be asked to return iBoxes to be reissued to other firms.

RMLS shall maintain current records as to all keys and lock boxes issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. An audit by physical inventory or by statement from the Participant may be performed annually, at the discretion of the RMLS Board of Directors, to affirm which iBoxes and eKeys are in each firm's possession. Participant will be assessed the cost of iBoxes plus shipping for iBoxes which are unaccounted for.

iBoxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or any other written document. Inclusion in RMLS compilations cannot be required as a condition of placing an iBox on the listed property.

### **Section 15.11 Lock Box Keys/EKeys**

Lock box keys and electronic keys will not be available to city, county or township assessors/departments or to home inspectors.



Keyholders sixty (60) days or more delinquent in payment of fees to, or if agreement is terminated with, FM REALTORS® and/or RMLS, keyholder is obligated to immediately return all property of FM REALTORS®/ RMLS including, but not limited to, lock boxes. Failure to do so may result in FM REALTORS®/RMLS, at its option, collecting the lock boxes and other property from its then current location. Language is included in the Key Agreement.

### **Section 15.12 Lock Box Allowance**

An annual lock box audit is to be done by FM REALTORS® staff. No member office shall retain more lock boxes than 125% of their active listings, excluding vacant lots, OR not more than ten (10) lock boxes above their current active listings, excluding vacant lots. Each office will be charged the current replacement cost, plus shipping, for unaccounted lock boxes, or will be assessed the current replacement cost per lock box above the defined amount herein. If boxes are returned that were previously unaccounted for, the member office shall receive a credit for the amount they were invoiced for replacement of each returned box. No credits shall be given for boxes returned 90 days after replacement were invoiced. No credit shall be given for returned boxes from a prior lock box system. In all cases the ownership of lock boxes remains with the association.

A fine of \$250 shall be assessed to Brokers for not completing lockbox audit by due date.

After \$250 fine is assessed for not completing lockbox audit by due date, the RMLS shall have the right to send the DR a notice of suspension of electronic key services which will occur if audit is not received within 30 days. If audit is not received in 15 days after notice of suspension to DR, notice of the same will be sent again to DR and applicable agents in the firm. (4/2021)

FM REALTORS®/RMLS may assess a surcharge of \$1.00 per lockbox per day over 125% or 10 (as per policy), if not returned after RMLS staff request. Surcharge to be billed monthly.

FM REALTORS®/RMLS has authority to retrieve lock boxes and other FM REALTORS®/RMLS property from companies suspended or out of business.

### **Section 15.13 Special Assessments**

RMLS listings must include accurate special assessments. \$1.00 may be used in General Taxes of New Construction listings.

### **Section 15.14 Expiration, Extension and Renewal of Listings**

Any listing filed with the RMLS automatically expires on the date specified in the agreement unless renewed by the listing broker and the extension signed by Seller(s) prior to expiration. If notice or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be filed with the RMLS. It should then be published as a new listing.

### **Section 15.15 MLS Audit Procedure**

To ensure compliance with these Rules and to maintain the integrity of the RMLS data, the RMLS reserves the right to audit the activity of any Participant/Subscriber as related to data entered into or withheld from and/or pertains to the RMLS.

A Subscriber may report a potential compliance violation to the RMLS without having their name released to the listing agent of the listing in question. Error reports, must be in writing, should include the MLS number of the listing, and a reference to the MLS policy that has been violated.

RMLS staff will randomly audit listings using the following procedure:

1. Notification of listing selected for audit will be made by email to the listing agent (Subscriber) and to the listing Broker (Participant).
2. Upon request, the listing Participant/Subscriber will provide necessary paperwork for the audited listing(s) to the RMLS office.
3. Paperwork must be submitted to the RMLS office within 48 hours of request, excluding weekends and postal holidays.
4. A fine of \$50/day will be assessed for requested paperwork that is not received within the 48-hour timeframe.
5. Necessary changes to the listings must be made within 24 hours of notification by the RMLS office.

### **Section 15.16 Written Buyer Agreement Audit Procedure**

1. Notification of listing selected for audit for written buyer agreement will be made by email to the selling agent (Subscriber) and to the selling Broker (Participant).
2. Upon request, the selling Participant/Subscriber will provide necessary written buyer agreement documentation for the audited listing(s) to the RMLS office.
3. Paperwork must be submitted to the RMLS office within 48 hours of request, excluding weekends and postal holidays.
4. The following fine(s) will be effective if documentation is not provided or inaccurate:
  - First offense - \$100
  - Second offense - \$500
  - Third offense - \$1,000
  - Fourth offense – Thirty (30) day RMLS suspension
  - Fifth offense – RMLS termination
5. If documentation is not provided within 48 hours of notification, excluding weekends and postal holidays, it automatically escalates to the next highest offense.

## **Section 16 Local Penalties**

### **Section 16: Local Penalties**

\*Note – MLS Orientation may be taken in lieu of fines if less than \$100 per violation and if MLS Orientation has not been taken in the past year.

#### **Section 16.1 Late Listings**

For failure to submit listings as required in Section 1, the penalty for a late listing will be \$50 for each business day the requirement is violated.

#### **Section 16.2 Permitting Unauthorized Access to RMLS**

Firms and/or Participants or Subscribers who permit access to the RMLS to anyone outside of the RMLS are in violation and penalties may be imposed as per Article 3, with a minimum penalty of \$500. Local update 1-2020

#### **Section 16.3 Branding**

A \$50 fine will be assessed for branding in the photos, videos, and public remarks. Advertising or any type of branding is not allowed in the RMLS, except for copyright attribution. This includes, but is not limited to, photographer watermarks on photos and videos, agents or their likeness appearing in photos or videos, links to agents or companies, seller, agent or company

names in web addresses, company ads in photos or videos, or seller, agent or company mention in public remarks, logos, or any type of prospecting. (updated 7/20)

#### **Section 16.4 Photos**

Fine \$50 for using photos from another Participant's listing. In the absence of express written permission, a \$50 fine will be assessed and the offending photos removed from the RMLS.

#### **Section 16.5 Failure to Follow Showing Instructions**

First Offense: Letter of Warning, required to complete RMLS online orientation, \$100 fine.  
Second Offense: Refer to Section 7. Local adopted 1-2020

#### **Section 16.6 Sharing of Electronic Key**

First Offense: Letter of Warning, required to complete RMLS online orientation, \$500 fine.  
Second Offense: Refer to Section 7. Local adopted 1-2020

#### **Section 16.7 Clear Cooperation Violation (Section 1.01)**

First Offense (per agent): Participant/listing broker will receive written warning with copy to listing agent. If the offense is not corrected within one (1) calendar day, it will be considered a second offense and a \$500 fine will be implemented. Second Offense (per agent): \$500 fine. Third Offense (per agent): \$1,000 fine. Additional Offenses (per agent): Refer to Section 7. Local adopted 4-2020

#### **Section 16.8 Inaccurate Data (Section 1.2.0)**

A \$50 fine will be assessed for inaccurate data in the RMLS. \$50 will be assessed each additional business day the listing has not been corrected (up to \$300 max fine). The listing will be removed from the MLS if the correction has not been made by the 6<sup>th</sup> business day.

#### **Section 16.9 Status Change Documentation**

Status Changes, including Extensions, Withdrawals, and Cancellations of listing agreements, must be filed with the RMLS according to Section 1.4 and Section 2.5. A \$50 fine will be assessed for each business day a status change is not updated.

Documentation of changes must be retained by the Participant and made available to the multiple listing service upon request (local).

#### **Section 16.10 No Compensation in MLS**

Participants and Subscribers are prohibited from making offers of compensation in the MLS (see Section 5.)

1. If an offer of compensation, compensation information, or similar is identified in the RMLS database, RMLS will provide notice of the violation via email to the listing agent (Subscriber) and to the listing Broker (Participant).
2. Participant or Subscriber must make all necessary changes to the listing(s) to correct the violation within 24 hours of notification by the RMLS office. The first offense fine automatically issues upon identification of the violation.
3. The following fine(s) will be effective:
  - First offense - \$100
  - Second offense - \$500
  - Third offense - \$1,000

- Fourth offense – Thirty (30) day RMLS suspension
  - Fifth offense – RMLS termination
4. If listing is not corrected within 24 hours of notification, it automatically escalates to the next highest offense.
  5. The fine(s) in this paragraph are on per-offense basis and will reset for each violation.

## **Section 17 Northstar Common Data Platform (CDP) Rule Provisions**

### **Section 17: CDP Rules Provisions**

#### **Section 17.1 Definitions**

**17.1.1** “Common Data Platform” or “CDP” means all the REALTOR® associations and multiple listings services (the “CDP MLSs”) that provide access to the multiple listing data of the Service in return for the Service providing its multiple listing data to the CDP MLSs. For purposes of these rules, the Service itself is a CDP MLS.

**17.1.2** “Other MLS” means any CDP MLS, other than the Service, from which Participant or its salespeople wish to obtain access to listing information.

**17.1.3** “Other MLS Policies” means the Other MLS’s bylaws, policies and procedures manual, and rules and regulations, as the Other MLS amends them from time to time. These policies may differ from those of the Service.

#### **Section 17.2 Purpose**

The purpose of the CDP is to make it possible for Participants and Subscribers of each CDP MLS to disseminate listing information in other CDP MLSs. The objective of the CDP is to facilitate the sharing of information among Participants and Subscribers of CDP MLSs.

#### **17.6 Access to Other MLSs**

Access to data of Other MLSs is subject to the following provisions:

**17.6.1** Access to Listing Data in Other MLSs. Participant and its salespeople may have access to the listings of an Other MLS through the CDP according to the terms of that Other MLS’s rules and regulations. Access to listings in other CDP MLSs is available only to those Participants entitled to access to listings in the Service.

#### **17.7 Application of Other MLS Rules**

If the Participant accesses or allows any of its salespeople to access the listing data of an Other MLS, Participant becomes bound by the rules and regulations of that Other MLS with regard to that listing data and with regard to any transaction arising from use of that data. The following provisions also apply.

**17.7.1** Priority of Rules and Agreements. Access by Participant and its salespeople to the Other MLS’s listing data is subject at all times to the limitations set out in the Other MLS Policies. In the event of an apparent conflict between the Other MLS Policies and these rules, Participant’s obligations and rights shall be determined, in order of precedence, by the Other MLS Policies, by any agreement between Participant and its salespeople and the Other MLS, and by these rules.

**17.7.2** Use limited. Participant and its salespeople may use the Other MLS's listing data solely for the purpose of selling, listing, leasing, and appraising real estate, and for IDX, VOW, and Firm Internal Use as provided in the Other MLS Policies. As used in the foregoing sentence, "Firm Internal Use" means any use of those portions of the MLS listing data relating to a Participant's own listings; and any use of those portions of the MLS listing data relating to listings of other Participants that exposes MLS listing data only to Participant's affiliated subscribers. Except as expressly provided in the Other MLS Policies, Participant and its salespeople may not copy, create derivative works of, distribute, perform, or display the Other MLS Database or any part of it.

**17.7.3** Confidentiality. Participant and its salespeople shall maintain the confidentiality of all user IDs, passwords, and tokens (if any) and of the Other MLS's listing data; Participant, its salespeople, and its employees shall not provide user IDs, passwords, or tokens (if any) to any third party. To maintain the confidentiality of all user IDs, passwords, and the Other MLS's listing data, Participant, its salespeople, and its employees shall take the greater of reasonable care or the care Participant takes to protect its own confidential information.

**17.7.4** Consideration of alleged rule violations. Participant must submit to the Other MLS Policies, whether relating to a listing record in the Other MLS Database or to another broker Participant in the Other MLS. Participant remains subject to the rules of the Service as well. As a result, it is possible that the same act or acts could constitute a violation of policy in both the Other MLS and the Service, and that Participant may be sanctioned for multiple violations if Participant is found culpable. Participant consents to the Service communicating the final resolutions of disciplinary proceedings to all CDP MLSs.

**17.7.5** Other sanctions. In addition to fines, Participant may be subject to other sanctions levied by the Service, including discontinued access to the CDP, the Other MLS's listing data, or the Service itself.

## **17.8 Disclaimer of Warranties**

The Other MLS provides the Other MLS data on an "as is", "as available" basis. Use of the Other MLS data and the information available through the Other MLS's listing data are at Participant's sole risk. The Service and the Other MLS do not warrant that the Other MLS's listing data will be uninterrupted or error-free, accurate, complete, current, or reliable.

## **Section 18 Orientation**

### **Section 18: Orientation**

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

Participants and Subscribers may be required, at the discretion of the RMLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period

when deemed necessary by the RMLS to familiarize Participants and Subscribers with system changes or enhancements and/or changes to RMLS rules or policies. Participants and Subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (Amended 11/17)

## **Section 19 Internet Data Exchange (IDX)**

### **Section 19 IDX Defined**

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

### **Section 19.1 Authorization**

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

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

### **Section 19.2 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. (Amended 11/09)

#### **Section 19.2.1**

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

#### **Section 19.2.2**

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

#### **Section 19.2.3**

Listings including property addresses can be included in IDX displays except where a seller has directed their listing brokers to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. (Amended 5/17)

#### **Section 19.2.4**

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

#### **Section 19.2.5**

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

#### **Section 19.2.6**

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

#### **Section 19.2.7**

Any IDX display controlled by a Participant must clearly identify the name of the brokerage firm under which they operate and state(s) of licensure in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 5/12) Subscriber websites must comply with the same requirements.

#### **Section 19.2.8**

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 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. (Amended 5/12)

#### **Section 19.2.9**

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

#### **Section 19.2.10**

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

### **Section 19.2.11**

Participants shall not modify or manipulate information relating to other Participants listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. (Adopted 5/15)

### **Section 19.2.12**

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

*\*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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application.*

## **Section 19.3 Display**

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

### **Section 19.3.1**

Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS Participants and Users (e.g. showing instructions and property security information) may not be displayed. (Amended 5/12)

### **Section 19.3.1.1**

The type of listing agreement (exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 5/12)

**Section 19.3.2** Deleted May 2015

**Section 19.3.3** Moved to Section 18.2.12 May 2017

### **Section 19.3.4**

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

### **Section 19.3.5**



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

**Section 19.3.6** Deleted November 2006

**Section 19.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information. (Amended 5/17)

*\*The MLS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MLS for 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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.*

**Section 19.3.8**

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.\* (Amended 5/17)

*\*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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 5/17)*

**Section 19.3.9** Not Applicable

**Section 19.3.10**

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

**Section 19.3.11** Not Applicable

**Section 19.3.12**

Display of expired and withdrawn listings is prohibited.

**Section 19.3.13**

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

**Sections 19.3.14 and 19.3.15** Not Applicable

**Section 19.3.16**

Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

#### **Section 19.4**

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors (Adopted 11/01, Amended 5/05)

### **Section 20 Virtual Office Websites (VOWs)**

#### **Section 20.1 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 RMLS and aggregated and distributed by the RMLS to Participants.

#### **Section 20.2**

- 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 20.3

- 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 20.4**

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 20.5**

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.

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

#### **Section 20.6**

- 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.

- 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.

### **Seller Opt-Out Form**

1. Check one.
  - a. ☐ I have advised my broker or sales agent that I do not want the listed property to be displayed on the internet.
  - b. ☐ I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
2. I understand and acknowledge that if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.

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Initials of seller

### **Section 20.7**

- 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 20.8**

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 20.9**

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

### **Section 20.10**

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 20.11**

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 20.12**

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, or type of property.

#### **Section 20.13**

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 20.14**

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 20.15**

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

#### **Section 20.16**

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 20.17**

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 20.18**

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, and the email or phone number provided by the listing Participant 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 20.19**

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 20.20**

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 20.21**

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 20.22**

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

## **Section 20.23**

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

# **Section 21 Brokerage Back Office Feed**

Participants are entitled to use the BBO Data for BBO Use subject to the provisions of this policy:

## **Section 21.1 BBO Data Defined**

“BBO Data” means all real property listing and roster information in the MLS database, including all listings of all Participants, but excludes (i) MLS only fields (those fields only visible to MLS staff and the listing Participant), and (ii) fields and content to which MLS does not have a sufficient license for BBO use.

### **Section 21.2 BBO Use Defined**

“BBO Use” means use of the BBO Data by Participant and subscribers affiliated with the Participant for the following purposes: (1) Brokerage management systems that only expose BBO Data to Participant and Subscribers affiliated with participant; (2) Customer relationship management (CRM) and transaction management tools that only expose the BBO Data to Participant, Subscribers affiliated with Participant, and their bona fide clients as established under state law; (3) Agent and brokerage productivity and ranking tools and reports that only exposes BBO Data to Participant and subscribers affiliated with Participant; (4) Marketplace statistical analysis and reports in conformance with these rules.

### **Section 21.3 BBO Use by Participant**

BBO Use may only be made by Participant and subscriber affiliated with Participant, except that at the request of a Participant, MLS must provide BBO Data to that Participant’s designee. The designee may use the BBO Data only to facilitate the BBO Use on behalf of that Participant and its affiliated subscribers.

### **Section 21.4 No Opt Out**

There is no option for Participants to opt-out their listings from the Brokerage Back Office Feed Use.

## **Section 22 Participant Valuation Data Use**

### **Section 22.1 Participant Valuation Defined**

“Participant Valuation” is Participant’s use and display of portions of MLS listing content, possibly including other data, for an automated valuation model (AVM), broker price opinion (BPO), comparative (or comparable) market analysis (CMA), or similar product or service, provided it can fairly be characterized as a valuation of real property and only to the extent permitted here. Participant Valuation services need not include any human judgment or analysis. As used in this Section XX of these rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensee, except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability.” References to “Participant Valuation” includes all Participant Valuation whether provided by a Participant, non-principal broker, or sales licensee.

### **Section 22.2 Valuation Vendor**

“Valuation Vendor” refers to an entity or person designated by Participant to provide Participant Valuation services to Participant, subject to Participant’s supervision, accountability, and compliance with this policy. No Valuation Vendor has independent participation rights in the MLS or right to use MLS listing content, except in connection with the provisions of Participant Valuation services to Participant. Access by Valuation Vendor to MLS listing content is derivative of the rights of the Participant on whose behalf it provides the Participant Valuation services. Participant may use Valuation Vendor’s technology



platform and services to facilitate the fulfillment of Participant Valuations services, subject to and as permitted by state law.

### **Section 22.3 Provision of Participant Valuation**

Participant may provide Participant Valuation services to individuals and entities with whom Participant establishes a broker-customer or broker-client relationship ("Registrants"), if such a relationship is required and defined by state law, including completion of all actions required by state law in connection with providing real estate brokerage services to Registrants. Such actions include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements necessary for performing valuations of real property services. Participant's Valuation Vendor may facilitate such actions where permitted by state law. Where state law does not require the establishment of a broker-customer or broker-client relationship for providing Participant Valuation services, the transaction must still occur between the Participant and Registrant, but may be facilitated by Participant's Valuation Vendor.

### **Section 22.4 Eligible Registrants**

Registrants may include Participant's bona fide clients and customers, financial institutions, mortgage lenders, mortgage bankers, mortgage brokers, mortgage loan servicers, title or mortgage insurers, insurers of payments owed to owners of mortgage backed securities, government sponsored entities, or such other businesses or institutions having an interest in automated reports on property valuation or market conditions.

### **Section 22.5 Registration E-mail Address**

Participant, or Valuation Vendor on behalf of Participant where permitted by state law, must obtain the name of and a valid e-mail address for each Registrant that is an individual and the name of and a valid email address for each authorized user if the Registrant is an entity. Participant must ensure that each Registrant agrees to the following terms of use or substantially similar terms of use. 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; Participant may utilize Valuation Vendor's technology platform to facilitate and fulfill these obligations.

### **Section 22.6 Terms of Use**

Participant, or Valuation Vendor on behalf of Participant where permitted by state law, must require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms-of-use agreement or other form of written contract that provides at least the following:

- (a) that Registrant acknowledges entering into a lawful consumer-broker relationship with Participant, if such a relationship is required by state law, or that Registrant acknowledges purchasing the Participant Valuation from Participant, if a consumer-broker relationship is not required by state law.
- (b) that all information obtained by Registrant from Participant Valuation is intended only for Registrant's business purposes related to (1) mortgage loan foreclosure or default risk assessment or the review of the quality or accuracy of real estate appraisals or other valuations (2) use in evaluating or engaging in a potential financing or other transaction relating to the subject property, (3) distribution to an actual or potential borrower of funds the repayment of which is secured by a mortgage lien on the subject property, or to the borrower's financial or legal

advisors, (4) the purchase or sale of mortgage servicing rights, (5) the purchase or sale of loans, or (6) the purchase, sale, or rental of properties whether property is intended to be used as a residence or for investment and whether the purchaser or seller is an individual or institution.

- (c) except as provided above, that Participant Valuations must not be used for any other purposes, including display on publicly accessible websites, and that Registrant must not resell Participant Valuation and must not copy, redistribute, or retransmit or otherwise use any of the MLS listing content provided in Participant Valuation.
- (d) that Registrant acknowledges, as between the parties, the MLS's ownership of and the validity of the MLS's copyright in the MLS listing content.
- (e) that Registrant authorizes MLS and other Participants or their duly authorized representatives to access and review the form used by Participant for any Participant Valuation for the purposes of verifying compliance with this policy and monitoring use of Participants' listings for Participant Valuation.

To the extent that Registrant breaches the terms of use agreement described in this policy, Participant and Valuation Vendor is liable to the MLS as if Participant or Valuation Vendor had breached the terms of use agreement itself. The agreement may also include such other provisions as may be agreed to between Participant and Registrant.

### **Section 22.7 Rights Limited to Participants**

Participant's right to use MLS listing content in any Participant Valuation is subject to the applicable office of Participant being a Participant in the MLS. In other words, an office of Participant that is not a Participant of the MLS, then it may not use MLS listing content in any valuations or real property provided to any third party.

### **Section 22.8 Standard of Care and Display**

Participant must protect the MLS listing content from misappropriation by employing reasonable efforts to monitor for and prevent scraping or other unauthorized accessing, reproduction, or use of the MLS listing content and Valuations.

### **Section 22.9 Compliance Checking**

Participant must make a copy of any type of Participant Valuation sold by Participant available to the MLS for purposes of verifying compliance with this policy. Participant must maintain an audit trail of Participant's delivery to Registrant of all Participant Valuations and make that information available to the MLS if the MLS has reason to believe that any Registrant has caused or permitted a breach of the terms of use (or comparable agreement).

### **Section 22.10 No Disclosure of Confidential Data**

Participants are prohibited from providing to any individual or entity, verbally or by any other delivery mechanism, any MLS listing content classified as confidential by the MLS. Participant and Valuation Vendor must ensure that such confidential information is not disclosed to Registrants or any other third party.

### **Section 22.11 Display Requirements**

Participant must cause to be placed on any Participant Valuation, or terms of use, (a) a notice indicating that the MLS listing content displayed on the Participant Valuation is not guaranteed accurate by the MLS or other Participants; (b) a copyright notice display "Copyright 20XX Fargo Moorhead Area Association of REALTORS®/RMLS" or "© 20XX Fargo Moorhead Area Association of REALTORS®/RMLS" or substantially similar. Participant must replace "20XX" with the current year as of January 1 each year.