

# SELKIRK MULTIPLE LISTING SERVICE RULES AND REGULATIONS

Revised March 1, 2021

## PREFACE

These Rules & Regulations are promulgated in accordance with the Bylaws of the Selkirk Multiple Listing Service and in compliance with National Association of REALTORS® (“NAR®”) requirements. The provisions of the NAR® Code of Ethics and Standards of Practice, the NAR® Handbook on Multiple Listing Policy, and the Idaho Code are incorporated herein by reference as though set forth at length, except as those provisions are modified herein. In the event of a conflict between the provisions of the NAR® model documents and these Rules & Regulations, the provisions of these Rules & Regulations shall control.

Amendments to these Rules & Regulations shall be by consideration and approval of the Board of Directors of the Selkirk Multiple Listing Service, subject to final approval by the Board of Directors of the Selkirk Association of REALTORS® and the National Association of REALTORS®.

## PURPOSE

The mission of the Selkirk Multiple Listing Service is to establish a relationship among Participants to offer compensation to and enhance cooperation with other Participants for the sale or exchange of interests in real property; to accumulate and disseminate information to enable authorized Participants to prepare appraisals, analyses, and other valuations of interests in real property for bona fide clients and customers; and to be a facility for the orderly correlation and dissemination of listing information so that Participants may better serve their clients and the public in a manner that is consistent with the NAR® Code of Ethics and Standards of Practice.

## CONFIDENTIALITY OF MLS INFORMATION

Any information provided by the MLS to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for use of Participants and Subscribers. Any Participant or Subscriber who sends confidential information in any form to any unauthorized recipient, or allows any unauthorized user access to the MLS database, shall be in violation of these rules and subject to fine, sanction, suspension, or expulsion as may be imposed by the Directors of the Service.

## MLS AUTHORITY

Pursuant to the Selkirk Multiple Listing Service Bylaws, the MLS Board of Directors has the following authority and duties:

- A. To consider and approve rules and regulations for the MLS and amendments thereto, subject to final approval of the Board of Directors of the Selkirk Association of REALTORS® and review by the National Association of REALTORS®.
- B. To issue policy interpretations.
- C. To interpret rules and regulations in the event of a dispute.
- D. To establish service charges, including late fees.
- E. To establish fines, fees, charges, and sanctions for violation of these Rules & Regulations.
- F. To enforce these Rules & Regulations.
- G. To consider violations of the Rules & Regulations of the Service.
- H. To schedule MLS training for Participants, Subscribers and Clerical Users.
- I. To keep all users informed of new rules, programs and updates to the MLS.

## DEFINITIONS

**Branch Office:** A fully operational authorized branch office as evidenced by: state licensing, corporate approval (if applicable), a distinctly independent physical address, as an active business open to the public for conducting normal brokerage operations, all representations including but not limited to advertising, business cards, websites, etc.

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- Business Day:** Monday through Friday, excluding Saturdays, Sundays and holidays.
- Cancellation:** A listing for which the written listing agreement between a seller and a Participant has been revoked or voided; cancelled listings are noted as such on the compilation of MLS listing information and the data remains on the MLS database.
- Clerical User:** An unlicensed individual who performs administrative tasks under the direct supervision of an MLS Participant or Subscriber.
- Closed Sale:** Listing for which the written agreement for the purchase and sale of real property listed through the Service has been completed and for which title has been transferred. These properties will be referred to as “Closed” in the Service’s compilation of data.
- Deletion:** Removal of an incorrect or duplicate listing from the MLS listing information when the listing has been entered by mistake or clerical error; deleted listing information is purged from the MLS database.
- IDX:** Internet Data Exchange - a means by which Participants and Subscribers can display a subset of data from the MLS listing information contained in the MLS compilation on company or individually owned websites.
- Listing:** Real or personal property offered for sale subject to a real estate Participant’s license and with the written permission of the seller and input to the MLS. To be accepted by the MLS, a Seller Representation Agreement must be on file with the brokerage and contain the contractual obligations required by Idaho law. (IC 54-2050)
- MLS/Service:** Selkirk Multiple Listing Service.
- MLS Compilation:** Any format in which property listing data is collected and disseminated to the Participants, including but not limited to bound book, computer database, or any other format whatever.
- Participant:** REALTOR® of this or any other Association who is a principal, partner, corporate officer, or branch office manager and who holds a current, valid real estate broker’s license and offers or accepts compensation to and from other Participants, or who is licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.
- Pending:** Listing for which there exists an offer to purchase which has been accepted by the seller, with or without contingencies (see “Sale”).
- Sale:** Listing for which the seller has accepted an offer to purchase real property listed through the Service, with or without contingencies.
- SAR:** Selkirk Association of REALTORS®
- Subscriber:** A user of the MLS, including a non-principal broker, sales licensee, or licensed and certified real estate appraiser affiliated with an MLS Participant.
- VOW:** Virtual Office Website – A Participant’s Internet web site 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 for MLS data subject to the Participant’s oversight, supervision, and responsibility.
- Withdrawal:** Removal, usually temporary, of a listing from “active” status on the MLS database when the listing agreement between the seller and Participant remains in force and effect.

## ***Key Definitions***

### **Section 1 - Multiple Listing Service (MLS) Defined**

#### **Multiple listing service is:**

- a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and customers and the public
- a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law)
- a means of enhancing cooperation among participants
- a means 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
- a means by which participants engaging in real estate appraisal contribute to common databases. *(Revised 11/04)*

Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease). *(Revised 11/94)*

While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional,\* a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. *(Revised 11/98)* **M**

### **Section 2 - Definition of MLS Participant**

Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offers or accepts compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized users are prohibited.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. *(Adopted 11/08)*

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a “Virtual Office Website” (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. *(Adopted 11/08)*

Compensation is unconditional except where local MLS rules permit listing brokers to reserve the right to reduce compensation offers to cooperating brokers in the event that the commission established in a listing contract is reduced by court action or by actions of a lender. Refer to Part Two, G., Section 1, Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS®, *Handbook on Multiple Listing Policy*. *(Adopted 11/98)*

Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. Additionally, the foregoing does not prohibit association multiple listing services, at their discretion, from categorizing non-principal brokers, sales licensees, licensed and certified appraisers and others affiliated with the MLS members or participants as users or subscribers and, holding such individuals personally subject to the rules and regulations and any other governing provisions of the MLS and to discipline for violations thereof. MLSs may, as a matter of local determination, limit participatory rights to individual principal brokers, or to their firms, and to licensed or certified appraisers, who maintain an office or Internet presence from which they are available to represent real estate sellers, buyers, lessors or lessees or from which they provide appraisal services. *(Amended 5/02)*

Where the terms subscriber or user are used in connection with a multiple listing service owned or operated by an association of REALTORS®, they refer to non-principal brokers, sales licensees, and licensed and certified real estate appraisers affiliated with an MLS participant and may, as a matter of local option, also include a participant’s affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS participant or the participant’s licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the rules and regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the participant’s ultimate responsibility for ensuring compliance with the rules and regulations of the MLS by all individuals affiliated with the participant. *(Adopted 4/92)*

Under the Board of Choice policy, MLS participatory rights shall be available to any REALTOR® (principal) or any firm comprised of REALTORS® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other participants; and payment of any MLS dues, fees, and charges. Participatory rights granted under Board of Choice do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director, except as granted at the discretion of the local board and/or MLS. *(Amended 5/97)*

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held.

**The MLS may charge participants and subscribers not holding primary or secondary membership in a REALTOR® association that owns the MLS a different amount than charged to members of the association, provided that such charge is reasonably related to the actual costs of serving those members. *(Amended 5/19)***

None of the foregoing shall be construed as requiring an association to grant MLS participatory rights, under Board of Choice, where such rights have been previously terminated by action of that association’s board of directors. *(Adopted 11/95)* **M**

Branch Office Participant: In order to hold Selkirk MLS membership (participation) as a branch office the branch office shall be a fully operational authorized branch office as evidenced by:

- State licensing
- Corporate approval (if applicable)
- A distinctly independent physical location
- An active business open to the public for conducting normal brokerage operations
- All representations including but not limited to advertising, business cards, websites, etc

Branch Office Subscriber: Subscribers licensed with a branch office shall present a true and accurate representation of such in all their business dealings by all means including but not limited to:

- Business cards
- Websites
- Advertising

*(Approved by MLS BOD 6/11/09 – Adopted by SAR Board 6/18/09)*

### **Section 3 - Definitions of Various Types of Listing Agreements**

Except where state law provides otherwise, the following terms shall be defined as follows when used in rules and regulations of any multiple listing service owned or operated by one or more associations of REALTORS®. *(Amended 5/06)*

**Exclusive Right-to-Sell Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker, regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else; and a contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker. *(Amended 5/06)*

**Exclusive Agency Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker. *(Amended 5/06)*

**Open Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker only if the property is sold through the efforts of the listing broker. *(Amended 5/06)*

**Note:** These definitions are provided to facilitate categorization of listings in MLS compilations. In any area of conflict or inconsistency, state law or regulation takes precedence. If state law permits brokers to list property, on either an exclusive or open basis, without establishing an agency relationship, listings may not be excluded from MLS compilations on the basis that the listing broker is not the seller's agent. *(Adopted 11/93, Amended 5/06)* **M**

### **Section 4 - Listing Content Defined**

"Listing content" as used in the National Association's multiple listing policies, including the model MLS rules and regulations, includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property. *(Adopted 5/06)* **M**

### **Section 5 - MLS Antitrust Compliance Policy**

The purpose of multiple listing is the orderly correlation and dissemination of listing information to participants so they may better serve the buying and selling public. Boards and associations of REALTORS® and their multiple listing services

shall not enact or enforce any rule which restricts, limits, or interferes with participants in their relations with each other, in their broker/client relationships, or in the conduct of their business in the following areas.

Boards and associations of REALTORS® and their MLSs shall not:

1. Fix, control, recommend, or suggest the commissions or fees charged for real estate brokerage services (Interpretation 14).
2. Fix, control, recommend, or suggest the cooperative compensation offered by listing brokers to potential cooperating brokers.
3. Base dues, fees, or charges on commissions, listed prices, or sales prices. Initial participation fees and charges should directly relate to the costs incurred in bringing services to new participants.
4. Modify, or attempt to modify, the terms of any listing agreement; this does not prohibit administrative corrections of property information necessary to ensure accuracy or consistency in MLS compilations.
5. Refuse to include any listing in an MLS compilation solely on the basis of the listed price.
6. Prohibit or discourage participants from taking exclusive agency listings or refusing to include any listing in an MLS compilation solely on the basis that the property is listed on an exclusive agency basis.
7. Prohibit or discourage participants from taking “office exclusive” listings; certification may be required from the seller or listing broker that the listing is being withheld from the MLS at the direction of the seller.
8. Give participants or subscribers blanket authority to deal with or negotiate with buyers or sellers exclusively represented by other participants (Interpretation 10).
9. Establish, or permit establishment of, any representational or contractual relationship between an MLS and sellers, buyers, landlords, or tenants.
10. Prohibit or discourage cooperation between participants and brokers that do not participate in the MLS.
11. Prohibit or discourage participants or subscribers from participating in political activities (Interpretation 15).
12. Interfere in or restrict participants in their relationships with their affiliated licensees (Interpretations 16 and 17).

As used in this policy, “rule” includes all rules, regulations, bylaws, policies, procedures, practices, guidelines, or other governance provisions, whether mandatory or not. “Multiple listing service” and “MLS” means multiple listing service committees of boards and associations of REALTORS® and separately-incorporated multiple listing services owned by one or more boards or associations of REALTORS®.

These policy prohibitions are subject to and limited by applicable statutes, ordinances, and governmental regulations, to agreements entered into by an MLS or board or association of REALTORS® and an agency of government, and to final decrees of courts or administrative agencies.

This policy does not prohibit boards or associations of REALTORS® or their MLSs from adopting rules or policies establishing the legitimate uses of MLS information, from prohibiting unauthorized uses of MLS information, or from establishing rules or policies necessary to prevent illegal collective action, including price fixing and boycotts.

It is the duty and responsibility of all boards and associations of REALTORS® and MLSs owned by or controlled by boards or associations of REALTORS® to ensure that all bylaws, rules, regulations, and other governance provisions comply with all mandatory multiple listing policies of the NATIONAL ASSOCIATION OF REALTORS®. Boards and associations of REALTORS® failing to conform with these policies will be required to show cause why their charters should not be revoked.

The numbered references refer to the official interpretations of Article I, Section 2 of the bylaws of the NATIONAL ASSOCIATION OF REALTORS®. (*Amended 11/04*) **M**

## ***MLS Rules and Regulations***

### **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 or outside of the territorial jurisdiction of the multiple listing service, and are taken by participants on the Exclusive Right To Sell and Exclusive Agency Listing forms shall be delivered to the multiple listing service within three (3) business days after all necessary signatures of seller(s) have been obtained: *(Amended 11/01)*

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange
- d. commercial for sale, lease, or exchange

**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 offer compensation to the other participants of the multiple listing service acting as subagents, buyer agents, or both. *(Amended 11/96)*

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

The different types of listing agreements include:

- exclusive right-to-sell (open)
- exclusive agency (net)

The service may not accept **net listings** because they are deemed unethical and, in most states, illegal. **Open listings** are not accepted except where required by law because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. *(Amended 4/92)*

The **exclusive right-to-sell** listing is the conventional form of listing submitted to the multiple listing service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers. *(Amended 4/92)*

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

**Note 2:** A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open

listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

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

### **Section 1.01 – Clear Cooperation**

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

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

### **Section 1.1 - Types of Properties**

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

- residential
- subdivided vacant lot
- commercial
- motel-hotel
- mobile home parks
- commercial lease
- residential income
- land and ranch
- mobile homes
- business opportunity

**“Reservation Only” Listings.** A property for which final plat approval has not yet been obtained may be filed as a listing with the Service as “Reservation Only” property and will show as “reservation” status in the MLS compilation. Reservation properties may not be displayed through IDX. In order to be placed as a listing with the Service, the property must have received a minimum of preliminary plat approval. The words “subject to final plat approval” must be placed in the confidential remarks section of the listing. Upon receipt of final plat approval, the listing shall be changed to “active” status within **three (3) business days**.

### **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. **R**

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

Participants and subscribers are required to submit accurate listing data and required to correct any known errors. **M**

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

Listing agreements under which the listing broker will not provide one, or more, of the following services (subject to Idaho Code).

- a. arrange appointments for cooperating Brokers to show listed property to potential buyers but instead gives cooperating brokers authority to make such appointments directly with the seller;



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

A Limited Service Listing will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services that the listing broker will provide to the seller(s), so 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 - Exempted Listings**

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (office exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he/she/they do not desire the listing to be disseminated by the service.

**Note 1:** Section 1.3 is not required if the service does not require all exclusive agency and exclusive right to sell listings to be submitted by a participant to the service. **M**

**Note 2:** MLS Participants must distribute exempt listings within one (1) business day once the listing is publicly marketed. See Section 1.101, Clear Cooperation. **M**

**Section 1.4 - Change of Status of Listing**

Any change in the 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 three (3) business days (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker. **R**

**Section 1.5 - Withdrawal/Cancellation of Listing Prior to Expiration**

Listings of property may be withdrawn or cancelled 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 or cancellation.

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

**Section 1.6 - Contingencies Applicable to Listings**

Any contingency or condition(s) of any term in a listing, shall be specified and noticed to Participants. **R**

**Section 1.7 - Listing Price Specified**

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

**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. When part of a listed property has been sold, proper notification should be given to the multiple listing service. **O**

**Section 1.9 - No Control of Commission Rates or Fees Charged to Participants**

The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants. **M**

**Section 1.10 - Expiration of Listings**

Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement unless prior to that date the MLS receives notice that the listing has been extended or renewed. *(Amended 11/01)* If notice of renewal or extension is received after the listing has been removed from

the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. *(Amended 11/01)* **M**

#### **Section 1.11 - Termination Date on Listings**

Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing broker and the seller. **M**

#### **Section 1.12 – Service Area**

Only listings of the designated types of property located within the service area of the MLS **are required to be submitted** to the service. Listings of property located outside the MLS's jurisdiction will be accepted if submitted voluntarily by a participant, but cannot be required by the service. *(Amended 11/17)* **M**

The Board of Directors of the Selkirk MLS have provided clarification to the rule that listings on the MLS must be "under the participants' licensure". To clarify; to place any listing of out of state property on the MLS the participant/Broker and the subscriber/agent must both be licensed to sell real estate in the state where the property is located and at the office that is a member office of the Selkirk MLS. *(Passed by Board approval 4/22/2010)*

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

When a Participant is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the REALTORS® Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules & Regulations, or other membership obligation, except failure to pay appropriate fees, dues, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the service until sold, withdrawn, or expired but shall not be renewed or extended by the service beyond the termination date of the listing agreement in effect when the suspension became effective.

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

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

When a Participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the REALTORS® Code of Ethics, Association Bylaws, MLS Bylaws, MLS Rules & Regulations, or other membership obligation, except failure to pay appropriate fees, dues, or charges), all listings currently filed with the MLS by the expelled Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn, or expired but shall not be renewed or extended by the Service beyond the termination date of the listing agreement in effect when the expulsion became effective.

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

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

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

#### **Section 1.16 - Pending of REO Properties**

When representing an REO seller be aware that within three (3) days of a viable signed offer being presented to the bank, with the Bank agreeing to review it for the purchase of the REO property, the listing should be marked as "Pending Bank Approval" in the MLS System. For people representing buyers of REO properties, please be aware that an REO listing marked "Pending Bank Approval" has an offer signed by the potential purchaser that is under review by the Bank. Contact the listing agents to see if the owner is still entertaining offers. As with all requirements to enter changes on the MLS, the change to "Pending Bank Approval" must be entered within three business days of the offer being accepted for review by the bank. Failure to make the change timely will result in a \$50 fine.

## ***Selling Procedures***

### **Section 2.0 - Showings and Negotiations**

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

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

### **Section 2.1- Presentation of Offers**

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

### **Section 2.2 - Submission of Written Offers**

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

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

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

The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations. *(Amended 4/92) M*

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

### **Section 2.4 - Rights of Listing Broker in Presentation of Counter-offers**

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

### **Section 2.5 - Reporting Sales to the Service**

Status changes, including final closing of sales and sales prices, shall be reported to the multiple listing Service by the listing broker within **three (3) business days** after they have occurred. In order to receive credit for a comp sale, comps shall be reported to the multiple listing service by the selling broker/agent within three (3) business days after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within (1) business day after occurrence and the listing broker shall report them to the MLS **within three (3) business days** after receiving notice from the cooperating broker. *(Amended 11/08)* **M**

**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.

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

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

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

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

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

### **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. **M**

### **Section 2.7 - Advertising of Listings Filed with the Service**

A listing shall not be advertised by any Participant, other than the listing **broker** without the prior written consent of the listing broker. **M**

### **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. **M**

### **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. *(Adopted 1/03, Amended 11/08)* **O**

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

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

## ***Refusal to Sell***

### **Section 3 - Refusal to Sell**

If the seller of any listed property filed with the multiple listing service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants. **R**

## ***Prohibitions***

### **Section 4 - Information for Participants Only**

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

#### **Section 4.1 - For Sale Signs**

Only the for sale sign of the listing broker may be placed on a property. (Amended 11/89) **M**

#### **Section 4.2 - Sold Signs**

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

#### **Section 4.3 - Solicitation of Listing Filed with the Service**

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

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

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

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

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

#### **Section 4.4 - Use of the Terms MLS and Multiple Listing Service**

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

## ***Division of Commissions***

### **Section 5 - Compensation Specified on Each Listing**

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

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

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

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

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount *(Amended 11/95)*

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

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

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. *(Amended 11/95)*

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

- Note 2:** The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. *(Amended 4/92)*
- Note 3:** The multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.
- Note 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. *(Adopted 11/98, Amended 5/08)*
- Note 5:** Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. *(Adopted 11/05) M*
- Note 6:** Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they must also be permitted to communicate to the participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers. *(Adopted 5/08)*

#### **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) M*

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

Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within hours of receipt of notification from the lender. *(Adopted 7/11) O*

#### **Section 5.1 - Participant as Principal**

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

#### **Section 5.2 - Participant as Purchaser**

If a participant or any licensee (including licensed 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) M*

### **Section 5.3 - Dual or Variable Rate Commission Arrangements**

The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 5/01) M

## ***Service Charges***

### **Section 6 – Payment of MLS fee/service charges**

Service charges for operation of the Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed. **The Schedule of Fees/Fines is attached hereto as Appendix A.**

**Note 1:** Any combination of charges may be used if they are in accordance with the National Association's MLS Antitrust Compliance Policy which prohibits a fee that is contingent on the sale of a listed property.

**a. Billing Procedures.** The Service shall send out a monthly invoice to all Participant offices on the 1<sup>st</sup> of the month, which is due and payable by the 10<sup>th</sup> of the month. The invoice shall include a listing of each MLS Subscriber for which Participant is charged a monthly MLS fee. Participant shall be responsible for timely payment in full to the Service of all invoices for monthly MLS fees. The MLS will not bill individual Subscribers for monthly MLS fees, with the exception of new Subscribers who are charged the first month's MLS fee at the time of joining the MLS.

**b. Termination/Transfer of Subscribers/Clerical Users.** A Participant shall notify the MLS in writing when a Subscriber or Clerical User is no longer affiliated with that Participant and shall advise the Service regarding arrangements for handling Subscriber's listings. A Participant who accepts an existing Subscriber or Clerical User from another Participant's office shall promptly notify the MLS in writing of the date of acceptance. In the case of a Subscriber transfer, the transferee Participant shall be responsible for payment of the Subscriber Transfer Fee within ten (10) days from the invoice date in the amount set forth in the Schedule of Fees/Fines (Appendix A).

**c. Late Charges.** A late charge in the amount set forth in the Schedule of Fees/Fines (Appendix A) will be assessed for late payment of any MLS invoice for fees. Failure to pay the full amount due (monthly fees plus late charge) by the first of the following month will result in suspension of Participant's MLS access. **To reconnect the MLS access, all unpaid sums must be paid in full, together with a reconnection fee in the amount set forth in the Schedule of Fees/Fines (Appendix A).**

**d. Payment for Supplies/Forms Purchases.** As a courtesy to Participants and Subscribers, the MLS office may not require payment at the time of purchase for forms or other supplies. If such sales are not paid for at the time of purchase, the MLS office will provide an invoice to the purchaser which is due and payable no later than ten (10) days from the date of the sale. Invoices for supply sales not timely paid shall be subject to a late payment penalty of ten percent (10%) of the invoice amount. Failure to timely pay an invoice for supplies will result in offenders being put on a "cash only" basis for supply sales, at the discretion of the MLS office, and referral of the unpaid invoice to the purchaser's Participant.

**e. Monthly Subscription Fee Due for All Licensees in an Office.** A Participant shall pay a monthly subscription fee for each licensed broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant and who has access to and use of the MLS.

The monthly subscription fee will include the lease of a copy of the MLS Listing Compilation. Suspension of services due to noncompliance with any participatory obligation as specified in the MLS Bylaws or Rules & Regulations shall not be a reason to waive or suspend any monthly subscription fee.



However, the MLS must provide Participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. The MLS may, at its discretion, require waiver recipients and their Participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of waiver if violated. *(Adopted 11/17) M*

### **Section 6.1 – Access Credentials**

Subscribers shall be given access credentials in the form of an identification word or number, a password, and any other form of individual secure identification that SMLS may implement to preserve security of the system. Subscribers may not share their access credentials with anyone, whether the other party is another Subscriber or non-Subscriber. Further Subscribers may not share access to the system by allowing anyone else to participate in an online access session using their access credentials, whether or not the actual credentials were disclosed or shared. Further, except as provided for in Section 12, in the course of their normal real estate practices, Subscribers may not use or convey all or any portion of the SMLS compilation from the system in any way to any non-Subscriber, non-Participant, or any ancillary business (whether or not affiliated with a Participant).

### **Section 6.2 – Full Participation**

All real estate and/or appraiser licensees in a Participant’s firm must be enrolled as Subscribers to SMLS unless application for a waiver is made and the waiver subsequently granted. Within ten (10) days of their affiliation with a Participant’s firm, all licensees affiliated with the Participant must apply for either (1) subscription to the SMLS service or (2) waiver of requirement to participate and subscribe. SMLS shall notify Participant when SMLS becomes aware of licensees in Participant’s firm that have not complied with these requirements.

#### **Section 6.2.1**

To be granted a waiver, the applicant (hereinafter, “Waiver Applicant”) must satisfy and continue to satisfy all of the following requirements:

- a. Waiver Applicant is NOT a listing agent for any active listing included in the MLS;
- b. Waiver Applicant does NOT possess, control, or use a lockbox key to enter, view, or show any property that is listed in the MLS;
- c. Waiver Applicant does NOT directly or indirectly access or use in any manner whatsoever the listing information stored in the MLS. Such access and use includes, but is not limited to, direct access to or use of the MLS and the use of the other devices or services provided by the MLS or its affiliated or licensed vendors or suppliers, that permit access to and use of any listing information from the MLS; and
- d. Waiver Applicant does NOT use, directly or indirectly, in any manner whatsoever information from the MLS to list properties for sale or lease, to identify or locate properties for any potential buyers or lessees, and does not participate in listing or sales activity requiring licensure for any properties listed in the MLS.

#### **Section 6.2.2**

Both the Waiver Applicant and the Participant who employs the Waiver Applicant, or with whom Waiver Applicant is affiliated through licensure, shall attest and certify in writing that Waiver Applicant meets all of the requirements for waiver of participation and shall agree to notify SMLS within ten (10) days of the change should any of the requirements for continuing the waiver no longer be met.

#### **Section 6.2.3**

A Participant or Subscriber of the SMLS shall not submit a listing on behalf of another. Waiver Applicants will not be allowed to submit a listing to the MLS.

### **Section 7 - Compliance with Rules, Authority to Impose Discipline**

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

- a. letter of warning
- b. letter of reprimand

- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Revised 11/14) M*

**Note 1:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. *(Revised 5/14) M*

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

### **Section 7.1 - Compliance with Rules**

The following action may be taken for noncompliance with the rules:

- a. for failure to pay any service charge or fee when due a late charge as established by the Board of Directors shall be assessed.

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. Once suspended there will be a reconnect fee, as established by the Board of Directors, payable prior to reactivation.

- b. for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply. **R**

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

### **Section 7.2 - Applicability of Rules to Users and/or Subscribers**

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

## ***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. **R**

## ***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.*

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

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

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the board of directors of the service, and if a violation is determined, the board of directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the directors' decision. *(Amended 11/96)*

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

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

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

## ***Confidentiality of MLS Information***

### **Section 10 - Confidentiality of MLS Information**

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

### **Section 10.1 - MLS 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. **R**

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

### **Section 11**

By the act of submitting any property listing content to the MLS the participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs,

images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property. *(Amended 5/06)* **M**

### **Section 11.1**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Selkirk Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the **Selkirk Association of REALTORS®. R**

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

### **Section 11.2**

Each participant shall be entitled to lease from the Selkirk Association of REALTORS® a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the association.\*

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

\*This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association

## ***Use of Copyrighted MLS Compilation***

### **Section 12 - Distribution**

Participants shall at all times maintain control over and responsibility for each copy of any MLS compilation leased to them by the Service, and shall not distribute any such copies to persons other than Subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by an Association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification, and unauthorized users are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association multiple listing service where access to such information is prohibited by law. *(Amended 4/92)* **R**

### **Section 12.1 - Display**

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

### **Section 12.2 - Reproduction**

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

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value valuations on a particular property properties for a particular clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. However, only such i Information that an association or association-owned multiple listing service has deemed to be nonconfidential and necessary to support the estimate of value may not be reproduced and attached to the report used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (*Amended 11/14*)

## ***Use of MLS Information***

### **Section 13 - Limitations on Use of MLS Information**

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the Board or MLS may be used by MLS Participants as the basis for aggregate 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 Board 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 Selkirk Association of REALTORS®/MLS for the period (date) through (date).”*  
*(Amended 11/97)*

## ***Changes in Rules and Regulations***

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

Amendments to the rules and regulations of the service shall be by consideration and approval of the board of directors of the multiple listing service, subject to final approval by the board of directors of the Selkirk Association of REALTORS® (shareholder).

## ***Arbitration of Disputes***

### **Section 15 - Arbitration of Disputes – Not adopted**

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

**Standard 16.1 – 16.22 – not adopted**

**Standard 16.23& Standard 16.24 – deleted 4/15**

MLS participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name, licensed office address and the licensee's state(s) of licensure in a reasonable and readily apparent manner. *(Adopted 11/07)* **O**

#### **Standard 16.24**

MLS participants shall present a true picture in their advertising and representations to the public, including Internet content, images, and the URLs and domain names they use, and participants may not:

1. engage in deceptive or unauthorized framing of real estate brokerage websites;
2. manipulate (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
3. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic,
4. present content developed by others without either attribution or without permission; or
5. otherwise mislead consumers, including use of misleading images. *(Amended 11/18)* **O**

### ***Orientation***

#### **Section 17 - Orientation**

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

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. *(Amended 11/17)* **M**

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

#### **Section 18 - IDX Defined**

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

Associations of Realtors® and their multiple listing services must enable MLS participants to display aggregated MLS listing information by specified electronic means in accordance with this policy. Requests for IDX feeds/downloads must be acted on by the MLS within five (5) business days from receipt, barring extenuating circumstances related to an individual's qualification for MLS Participation, and review of the participant's and vendor's use of the IDX information consistent with the MLS rules, in which case an estimated time of approval or denial must be issued. Electronic display subject to this policy means displays on participants' public websites and displays using applications for mobile devices that participants control. For purposes of this policy "control" means participants must have the ability to add, delete, modify and update information as required by this policy. All displays of IDX listings must also be under the actual and apparent control of the participant, and must be presented to the public as being the participant's display. Actual control requires that the participant has developed the display, or caused the display to be developed for the participant pursuant to an agreement giving the participant authority to determine what listings will be displayed, and how those listings will be displayed. Apparent control requires that a reasonable consumer viewing the participant's display will understand the display is the participant's, and that the display is controlled by the participant. Factors evidencing control include, but are not limited to, clear identification of the name of the brokerage firm under which the participant operates in a readily visible color and typeface, except as otherwise provided for in this policy (e.g., displays of minimal information). All electronic display of IDX information conducted pursuant to this policy must comply with state law and regulations, and MLS rules.

Any display of IDX information must be controlled by the participant, including the ability to comply with this policy and applicable MLS rules. *(Amended 05/15)*

#### **Section 18.1-Authorization**

Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display. *(Amended 5/12) M*

#### **Section 18.2- Participation**

Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. *(Amended 11/09) M*

#### **Section 18.2.1**

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

#### **Section 18.2.2**

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

#### **Section 18.2.3**

Listings including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs). *(Amended 5/12) M*

#### **Section 18.2.4**

Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each participant. *(Amended 5/17) M*

#### **Section 18.2.5**

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

#### **Section 18.2.6**

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

#### **Section 18.2.7**

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

#### **Section 18.2.8**

Any IDX display controlled by a participant or subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker

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

### **Section 18.2.9**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Amended 5/12)* **M**

### **Section 18.2.10**

An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX 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)* **M**

### **Section 18.2.11**

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

### **Section 18.2.12**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in readily visible color and typeface not smaller than the median used in the display of listing data. *(Amended 5/17)* **M**

### **Section 18.3 - Display**

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

#### **Section 18.3.1**

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

#### **Section 18.3.1.1**

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

**Section 18.3.2** - Deleted May 2015.

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

**Section 18.3.4** – Deleted July 2017.

#### **Section 18.3.5**



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

**Section 18.3.6** - Deleted November 2006.

**Section 18.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. *(Amended 5/12)* **O**



**Section 18.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. *(Amended 5/12)* **O**

**Section 18.3.9**

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

**Section 18.3.10**

The right to display other participants’ listings pursuant to IDX shall be limited to a participant’s office(s) holding participatory rights in this MLS. **O**

**Section 18.3.11**

Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant hold participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. *(Amended 5/17)* **O**

Note: An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in 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 4/15)*

**Section 18.3.12**

Display of expired, withdrawn, pending and sold listings is prohibited. *(Amended 11/15)* **O**

**Section 18.3.13**

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

#### **Section 18.3.14**

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

#### **Section 18.3.15**

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

#### **Section 18.3.16**

Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. (Adopted 11/09) ○ *(Clarification: In accordance with Article 12 of the Code of Ethics, the consumer must be able to discern, without a doubt, that the site displaying the IDX-provided listings belongs to the MLS participant or subscriber.)*

#### **Section 18.4 - Service Fees and Charges**

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

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

#### **Section 19.1**

(a) A Virtual Office Website ("VOW") is a Participant's Internet website, or a feature of a Participant's website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and account-ability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant's oversight, supervision, and accountability.

(b) As used in Section 19 of these Rules, the term "Participant" includes a Participant's affiliated non-principal brokers and sales licensees – except when the term is used in the phrases "Participant's consent" and "Participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a Participant.

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

(d) As used in Section 19 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

#### **Section 19.2**

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

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

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

### **Section 19.3**

(a) Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

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

(ii) The Participant must obtain the name of, and a valid email address for, each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.

(iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

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

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

(d) The Participant shall require each Registrant to review, and affirmatively to express agreement (by mouse click or otherwise) to, a "Terms of Use" provision that provides at least the following:

i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

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

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

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

v. That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.

(e) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and

Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.

(f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

#### **Section 19.4**

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

#### **Section 19.5**

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

#### **Section 19.6**

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

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

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

1. Please check either Option "A" or Option "B"

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

OR

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

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

\_\_\_\_\_  
initials of seller

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

#### **Section 19.7**

(a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii)

display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing

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

#### **Section 19.8**

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

#### **Section 19.9**

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

#### **Section 19.10**

Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

#### **Section 19.11**

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

#### **Section 19.12**

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

#### **Section 19.13**

A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

#### **Section 19.14**

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

#### **Section 19.15**

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

a. expired and withdrawn listings

**Note:** Due to the 2015 changes in IDX policy and the requirement that participants be permitted to make MLS listing information available to Registrants of VOW sites where such information may be made available via other delivery mechanisms, MLSs can no longer prohibit the display of pending ("under contract") listing on VOW sites.

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

**Note:** If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15f. must be omitted.  
(Revised 11/15) **M**

**Section 19.16**

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

**Section 19.17**

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

**Section 19.18**

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

**Section 19.19**

A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than five hundred (500) current listings and not more than zero (0) sold listings in response to any inquiry.

**Note:** The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule, but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less. (Amended 11/17) **M**

**Section 19.20**

A Participant shall require that Registrants' passwords be reconfirmed or changed every ninety (90) days.

**Section 19.21**

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

**Section 19.22**

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

### **Section 19.23**

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

### **Section 19.24**

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

### **Section 19.25**

Where a seller affirmatively directs their listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within 48 hours. (11.03.08)

## ***Lock Boxes***

### **Section 20.1 - Lock Boxes**

No multiple listing service need use lock boxes and no listing broker need use a lock box on a property, but if the multiple listing service does offer the lock boxes, it must make them available to anyone who participates in the multiple listing service, whether an association member or not. Nothing shall prevent the owner's right to refuse to have a lock box on his property.

A lock box is a container affixed to property containing a device to gain access to the property being marketed by a participant in the MLS. Participants in the MLS or their salespersons (and licensed or certified appraisers affiliated with the participants) are authorized under certain conditions to open these lock boxes under terms specified by the listing broker. Cooperating brokers and sales licensees, whether functioning as subagents of the listing broker or as agents of potential purchasers, must contact the listing broker to disclose their agency status and to arrange appointments to show listed property even if the property has a lock box affixed to it unless the listing broker has given specific permission (through information published in the MLS or otherwise) to show the property without first contacting the listing broker.

If an association or its multiple listing service elects to engage in the sale, rental, or distribution of lock boxes to its members or be involved in any way with the sponsorship or endorsement of a common lock box system, the lock box security requirements as established by the NATIONAL ASSOCIATION OF REALTORS® shall be the minimum security measures adopted and implemented in connection with such lock box system. Eligibility for coverage under the National Association's blanket errors and omissions insurance program is contingent on compliance with the lock box security requirements whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor. (*Amended 11/90*) **M**

### **Section 20.2 - Lock Box Security Requirements**

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor:

1. Any key, programmer, or other device (hereinafter referred to as key) by which a lock box can be opened shall be nonduplicative. By nonduplicative it is not meant that the key is necessarily covered by a current patent but that it cannot be readily copied in the manner that other types of keys ordinarily are.
2. Keys must be obtained from the original manufacturer, from a recognized vendor of lock box systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, information shall be obtained from the original manufacturer to determine whether the key's pattern, code, or configuration is already in use by other associations, multiple listing services, or other users in the vicinity. Surrounding associations and multiple listing services shall also be contacted to determine whether the key's pattern, code, or configuration is currently in use.

3. Any lock box system shall be designated as either an activity of an association of REALTORS® or an association-owned and operated MLS.

If the lock box system is an activity of an association of REALTORS®, then every REALTOR® and REALTOR-ASSOCIATE® and every non-principal broker, sales licensee and licensed or certified appraiser affiliated with a REALTOR®, shall be eligible to hold a key subject to their execution of a lease agreement with the association. *(Amended 11/96)*

If the lock box system is an activity of an association-owned and operated multiple listing service, then every MLS participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.

Associations and multiple listing services may require, as a matter of local determination, that key lease agreements executed by non-principal brokers, sales licensees, and licensed or certified appraisers will be cosigned by the designated REALTOR® or the office's broker of record. Lease agreements shall spell out the responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the association or MLS that relate to the operation of the lock box system. The lease agreement shall also provide that keys may not be used under any circumstances by anyone other than the keyholder except as provided elsewhere in this statement of policy. *(Amended 2/98)*

Associations and multiple listing services may, at their discretion, authorize unlicensed personal assistants, administrative and clerical staff, and individuals seeking licensure as real estate appraisers, who are under the direct supervision of a designated REALTOR®, or MLS participant, or their licensed designee, to hold a lock box key on the same terms and conditions as non-principal brokers and sales licensees. *(Adopted 11/93)*

Associations and multiple listing services 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 convicted of a felony or misdemeanor if the crime, in the determination of the association or MLS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

Associations or multiple listing services may suspend the right of lock box keyholders to use lock box keys following their arrest and prior to their conviction for any felony or misdemeanor which, in the determination of the association or MLS, relates to the real estate business or which puts clients, customers, or other real estate professionals at risk.

Factors that can be considered in making such determinations include, but are not limited to:

- the nature and seriousness of the crime
- the relationship of the crime to the purposes for limiting lock box access
- the extent to which access (or continued access) might afford opportunities to engage in similar criminal activity
- the extent and nature of past criminal activity
- time since criminal activity was engaged in
- evidence of rehabilitation while incarcerated or following release and
- evidence of present fitness *(Adopted 11/99)*

Administration of a lock box system as an activity of an association of REALTORS® may, at the discretion of the association, be delegated to its multiple listing service.

No one shall be required to lease a key from the association except on a voluntary basis.

Associations and multiple listing services may, at their discretion, lease keys to affiliate members of associations who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the lease



agreement shall be signed by the keyholder and by a principal, partner, or corporate officer of the keyholder's firm. *(Amended 11/97)*

Key lease agreements may contain a liquidated damages provision to offset some or all of the costs in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the keyholder. *(Amended 11/97)*

4. Associations shall maintain current records as to all keys issued and in inventory. There shall be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or, alternatively, by receipt of a statement signed by the keyholder and the designated REALTOR®, broker of record, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the keyholder's firm, attesting that the key is currently in possession of the keyholder. This audit requirement does not apply to electronic lock box programmers or keypads which are sold or leased provided such devices may be deactivated within thirty (30) days. *(Amended 5/99)*
5. Associations shall require a substantial deposit from each keyholder in an amount that will establish an awareness of personal liability for such key. The initial deposit shall not be less than \$25 nor more than \$300. Deposits for a first replacement key lost or stolen shall be not less than two (2) times nor more than three (3) times the amount of the initial deposit and not less than three (3) times nor more than four (4) times the amount of the initial deposit for second or additional replacement keys. Deposits for keys shall be kept in a special account for refund upon return of the key unless forfeited upon loss of the key. Notwithstanding the foregoing, deposits charged affiliate members may be no more than twice the amounts established above.

If, at the time of inventory, a key is unaccounted for, or if a keyholder refuses or is unable to demonstrate that the key is within their physical control, then the key will be considered unaccounted for and any funds on deposit will be forfeited to the association.

Deposits for electronic programmers or electronic keycards which are leased but which can be deactivated within thirty (30) days may be required as a matter of local determination. *(Adopted 11/95) M*

6. Lock boxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or in a separate document created specifically for the purpose. Inclusion in MLS compilations cannot be required as a condition of placing lock boxes on listed property. *(Amended 11/05)*
7. Associations shall charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the association. Upon receipt of notice, the association shall take any steps deemed necessary to resecure the system.
8. Associations shall adopt written, reasonable, and appropriate rules and procedures for administration of lock box systems which may include appropriate fines, not to exceed \$5,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association and set forth in the rules and procedures. All keyholders, whether association members or not, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lock box system. *(Amended 11/05)*
9. Notwithstanding the foregoing, associations and multiple listing services may sell electronic lock box programmers or keypads to MLS participants and others eligible to hold lock box keys pursuant to these requirements provided that such devices may be deactivated, if necessary, within a reasonable period not to exceed thirty (30) days and that the participant has authorized the sale in writing. In the event electronic lock box programmers or keypads are sold or leased, a designated REALTOR® principal or an office's broker of record may purchase or lease additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the issuing association or MLS. When a programmer or keypad is issued on a temporary basis, it shall be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing that the programmer or keypad has been issued, to

whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing within forty-eight (48) hours after possession of the previously issued programmer or keypad has been reassumed. *(Adopted 4/95)* **M**

# Appendices

**Appendix A**  
**SELKIRK MLS SCHEDULE OF FEES/FINES**  
**(Participant is responsible for payment of all fees and fines.)**

**MLS FEE SCHEDULE (Effective 7/1/2018)**

New MLS Office Application Fee	\$750.00
New MLS Member Participant/Subscriber Application Fee	\$300.00
Monthly Association Member MLS Fee	\$ 45.00
Monthly Non-Association Member MLS Fee	\$ 45.00
Transfer Fee for Agent to New Office	\$200.00
Additional RETS Account Setup	\$ 50.00
Annual Additional RETS Maintenance Fee	\$ 25.00
Lockbox Key Annual Fee (for Home Inspector Users – payable in advance)	\$150.00
Replacement fee for Bluetooth iBox LE lockbox	\$ 99.00
Replacement fee for XpressKEY	\$249.00
Replacement fee for XpressKEY face/glass	\$ 40.00
Annual mandatory insurance for XpressKEY	\$ 29.95
Charge for Late Payment of MLS Membership Fees	10% of invoice amount
Charge for Late Payment of Supplies/Forms Invoice	10% of invoice amount
Reconnect Fee for MLS Access	\$150.00

MLS Fine Schedule	
Failure to submit a listing with at least one (1) photo within three (3) business days	\$100.00 per occurrence
Failure to submit a listing within one (1) business day of marketing to public (Clear Cooperation)	\$100 per occurrence
Failure to submit any change in listed price or any other change in the original listing agreement within three (3) business days	\$100.00 per occurrence
Failure to submit notice that listing is “pending” within three (3) business days	\$100.00 per occurrence
Failure to submit a properly-completed Change Form or enter changes within (3) business days of the date of a withdrawal, deletion, cancellation, or <i>closed</i> sale	\$100.00 per occurrence
Failure to fully report <i>closed</i> sales to the Service within Three(3) business days from	\$100.00 per occurrence

the Closing date	
Failure to submit notice of cancellation of a pending sale within three (3) business days	<b>\$100.00 per occurrence</b>
Key Security Violation - First Offense	Up to \$500.00 fine
Key Security Violation - Second Offense	Up to \$1,000.00 fine and return of Key
Unauthorized Entry into a Property Using a Key	Up to \$15,000.00 fine and expulsion of Key Holder from the MLS; Keyholder subject to possible criminal/civil prosecution
Listing of Non-Member Listings without a valid co-list agreement	First violation, letter of reprimand. Second violation, \$1,000.00 fine. Third violation, 90 suspension of MLS privileges. Repeat violations could result in permanent suspension of MLS privileges.
Sanctions for Data Misappropriation (IDX & VOW)	At the discretion of the MLS Board of Directors:  <ol style="list-style-type: none"> <li>1. A fine of up to \$15,000.00</li> <li>2. Suspension of MLS privileges</li> <li>3. Termination of MLS privileges</li> <li>4. Possible civil/criminal prosecution</li> </ol>
Sanctions for Failure to Pay MLS Fee Invoice by first of following month	Suspension of Participant's MLS access
Sanctions for late payment of supplies/forms invoices	"Cash only" basis for supplies/forms sales, at the discretion of the Executive Director, and referral of unpaid invoice to Participant and MLS Board of Directors, if necessary
Non-compliance of MLS Waiver (sharing of login and password with Waiver Applicant(s) and/or misuse of MLS data)	\$250.00 first violation, additional violations increase in increments of \$250.00. Suspension of MLS privileges upon third violation, possible termination of MLS privileges for repeat violations.

## Appendix B: Lockbox Lease Agreement

IF YOU NEED A COPY OF THIS SUB-LEASE/LICENSE FOR YOUR RECORDS, PLEASE MAKE A COPY.  
ALL ATTACHMENTS ARE PART OF THIS SUB-LEASE/LICENSE. READ THEM BEFORE SIGNING.

### Sub-Lease/License Agreement

This Sub-Lease/License Agreement ("Agreement") is entered into by and between the Organization and Keyholder shown on page 4 of this Agreement on the date set forth therein.

Keyholder and Organization agree as follows:

#### **1. LEASE AND LICENSE**

- a. **XpressKEY.** If selected, Organization leases to Keyholder, and Keyholder leases from Organization, the XpressKEY (the "XpressKEY") (which may be new or refurbished). The equipment and software incorporated in the XpressKEY enables Keyholder to obtain a current update code; open and perform other iBox functions; and upload property-showing data.
- b. **eKEY Basic Software.** If selected, Organization grants to Keyholder, a limited non-exclusive, non-transferable, revocable sub-license for the Term to use the eKEY Basic Software (the "eKEY"). The eKEY enables Keyholder to obtain a current update code; open and perform other iBox functions; and upload property showing data. The eKEY is used with certain electronic devices ("Devices") approved by Supra. Supra may approve additional Devices during the term of the Agreement but does not provide any warranty of the performance of such Devices.
- c. **iBox BT LE.** If applicable, Organization leases to Keyholder for the Term, and Keyholder agrees to lease, iBox BT LE units ("iBoxes").
- d. **Network.** Organization grants to Keyholder (i) a limited non-exclusive, non-transferable, revocable sub-license to use the network (the "Network"), the use of which Organization licenses from UTC Fire & Security Americas Corporation, Inc. ("Supra"), which is necessary for the use and operation of the XpressKEY or eKEY (collectively, "Key") for the Term shown on page 4 of this Agreement and (ii) a limited, non-exclusive, nontransferable, revocable sub-license to use the software Organization licenses from Supra (the "Software") for the Term.

#### **2. SERVICE**

- a. The Software, the equipment incorporated in the XpressKEYs and iBoxes (if applicable), (collectively, "Equipment"); Network; and KIM Database are collectively, "Service."
- b. Keyholder understands that, in order to make the Service available to Keyholder, Organization and Supra entered into a Master Agreement that provides the terms under which Supra will provide the Service to Organization. **Keyholder understands that, if the Master Agreement is terminated for any reason during the Term of this Agreement, the Service will no longer be available to Keyholder and this Agreement will terminate in accordance with Section 12 below. Keyholder agrees that, under the terms of the Master Agreement, Organization may elect a different Service or choose to upgrade the Service at any time during the Term of this Agreement, which may result in an increase of the System Fee and/or the termination of this Agreement.** Except as the rights and obligations of Keyholder and Organization under this Agreement may be affected as described in the two preceding sentences, the rights and obligations between Keyholder and Organization with respect to the Service are governed solely by the terms and conditions of this Agreement. Keyholder understands that failure of Organization to perform its obligations under the Master Agreement may detrimentally affect Keyholder's use of the Service.
- c. In the Master Agreement, Supra has reserved the right to discontinue any item of Equipment used in connection with the Service. If Supra discontinues any item of Equipment, the Equipment leased and licensed hereunder shall continue to be completely compatible with and shall function with the Service. If the Equipment leased is lost, destroyed or damaged, Organization may replace that Equipment with refurbished Equipment ("Replacement"), which shall be completely compatible with and shall function with the Service, and shall offer the same level of functionality as the Equipment currently offered.
- d. Keyholder agrees to comply with the Rules and Regulations relating to the use of the Service which are set forth in the User Guide and the Rules and Regulations of Organization and/or its MLS system. By executing this Agreement, Keyholder agrees to maintain the security of the personal identification number of each piece of Equipment to prevent the use of the Equipment by unauthorized persons. Keyholder further agrees that neither the Service, nor any other Supra product used in connection with the Service (including the Equipment), is a security system. The Service is a marketing convenience key-control system, and as such, any loss of Equipment or disclosure of personal identification numbers compromises the integrity of the Service, and Keyholder agrees to use her or his best efforts to ensure the confidentiality and integrity of all components of the Service.

**3. TERM** This Agreement shall commence on the date set forth in the signature block and have a term ("Term") until the date set forth on page 4, unless terminated earlier or extended pursuant to the provisions of this Agreement.

#### **4. PAYMENTS**

- a. **DURING THE TERM OF THIS AGREEMENT, KEYHOLDER SHALL PAY TO ORGANIZATION A FEE FOR THE RIGHT TO USE THE SERVICE PLUS APPLICABLE TAX (THE "SYSTEM FEE"). SUCH SYSTEM FEE SHALL BE DETERMINED BY ORGANIZATION. KEYHOLDER SHALL BE ENTITLED TO TERMINATE THIS AGREEMENT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN SECTION 12.**
- b. Keyholder shall pay the System Fee determined by the Organization upon entering this Agreement and shall pay the System Fee for all subsequent years as directed by the Organization.
- c. Organization reserves the right to: (i) increase the System Fee annually, (ii) charge a key activation fee, (iii) charge a late fee for any System Fee that is not paid as directed by the Organization, and (iv) charge a fee for any payment that is returned unpaid or for

insufficient funds or credit.

d. EXCEPT AS OTHERWISE PROVIDED HEREIN, KEYHOLDER'S OBLIGATION TO MAKE PAYMENTS TO OR AT THE DIRECTION OF ORGANIZATION SHALL BE ABSOLUTE, UNCONDITIONAL, NONCANCELABLE AND INDEPENDENT AND SHALL NOT BE SUBJECT TO ANY SETOFF, CLAIM OR DEFENSE FOR ANY REASON, INCLUDING ANY CLAIMS KEYHOLDER MAY HAVE RELATING TO PERFORMANCE OR FOR LOSS OR DAMAGE OF OR TO THE SERVICE OR THE EQUIPMENT OR ANY REPLACEMENTS.

**5. TITLE AND USE** The Service, including all its components, and the Equipment (except iBoxes), are and shall at all times remain the property of Supra. All additions and upgrades to the Software shall become part of the Software and shall, without further act, become the property of Supra. The Software and all applicable rights in patents, copyrights, trade secrets, and trademarks, are and shall at all times remain the property of Supra.

**6. RISK OF LOSS: RETURN OF EQUIPMENT**

a. No loss, damage or destruction to the Equipment shall relieve Keyholder of any obligation under this Agreement, except to the extent any such loss, damage or destruction is directly caused by the negligence of Organization. The cost for replacing Equipment that is lost, damaged or destroyed and the damages to be paid by Keyholder for failing to return the Equipment upon termination of this Agreement is: **XpressKEY - \$249.00; XpressKEY screen - \$40.00.** Replacements may be refurbished Equipment.

b. At the expiration of the Term, Keyholder, at Keyholder's expense and risk, shall immediately return or cause the return to Organization to such location as Organization shall specify, all Equipment or components leased and licensed pursuant to this Agreement. All Equipment or components leased and licensed herein shall be returned in good condition, repair and working order, ordinary wear and tear excepted.

**7. REPRESENTATIONS AND COVENANTS** Keyholder covenants and agrees:

a. If Keyholder misuses the Service or any component thereof, including without limitation, use of the Service in violation of the User Guide, and a third party brings an action against Organization and/or Supra relating to such misuse, Keyholder agrees to indemnify, defend and hold harmless Organization and/or Supra, and their respective directors, officers, agents, representatives, employees, successors and assigns, from and against any and all claims, demands, actions, losses, damages, injuries, obligations, liabilities and costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, in bankruptcy, including without limitation, any adversary proceeding, contested matter or motion or otherwise) incurred by Organization and/or Supra in such proceeding.

b. **That neither Organization nor Supra shall be liable for any compensatory, indirect, incidental, consequential, punitive, reliance or special damages, including, without limitation, damages for lost profits, advantage, savings or revenues of any kind or increased cost of operations, arising out of the use or inability to use the Service for any purpose whatsoever whether or not Keyholder has been advised of the possibility of such damages.**

c. That Keyholder will not (i) use or gain access to the source code for the Software; (ii) alter, reproduce, modify, adapt, translate, reverse engineer, de-compile, disassemble or prepare derivative works based upon the Software; or (iii) provide or otherwise make available the Software or any part or copies thereof to any third party.

d. To provide Organization and Supra with written notice of any legal proceeding or arbitration in which Keyholder is named as a defendant and that alleges defects in the Equipment within five (5) days after Keyholder receives written notice of such action.

The obligations set forth in this Section shall survive termination of this Agreement.

**8. DEFAULT**

a. Each of the following events shall be an Event of Default by Keyholder under this Agreement: (i) Keyholder's failure to pay, for any reason, any amount required under this Agreement within fifteen (15) days after the date that such payment is due; or (ii) the commencement of either an involuntary or voluntary action under any bankruptcy, insolvency or other similar law of the United States of America or any state thereof or of any other country or jurisdiction with respect to Keyholder; provided, however, that the commencement of any involuntary case or proceeding will not be an Event of Default under this Agreement if such case or proceeding is dismissed within sixty (60) days after it was commenced.

b. An Event of Default by Organization under this Agreement will occur upon the termination for any reason of the Master Agreement.

**9. RIGHTS AND REMEDIES**

a. Upon the occurrence of an Event of Default by Keyholder, Organization may, at its sole option and without limitation or election as to other remedies available under this Agreement or at law or in equity, exercise one or more of the following remedies: (i) terminate this Agreement and demand the return of any Equipment and Software to Organization; (ii) terminate one or both of Keyholder's sub-licenses to use the Network and to use the Software; (iii) direct Supra to deactivate Keyholder's access to the Service or any component of the Service; (iv) bill the Keyholder for any outstanding amounts owed under this Agreement, including any applicable liquidated damages for the failure to return the Equipment; and/or (v) take any and all actions necessary to collect all amounts currently due and owing under this Agreement, including any and all costs and expenses of every kind or nature (including reasonable attorneys' fees, whether incurred at the trial or appellate level, in an arbitration proceeding, or in bankruptcy, including any adversary proceeding, contested matter or motion, or otherwise) incurred by Organization in connection with the exercise of its rights and remedies under this Agreement.

b. Upon the occurrence of an Event of Default by Organization or termination of this Agreement, all of Keyholder's obligations under this Agreement shall terminate, except that Keyholder shall be required to return the Equipment and Software to Organization and to pay Organization any outstanding amounts owed under this Agreement, including any damages for the failure to return the Equipment and Software.

c. If Organization deactivates the Service because of a default by Keyholder under this Agreement, but does not otherwise terminate this Agreement, Keyholder will be entitled to seek to have the Service reactivated. In order to so, Keyholder shall be required to cure any and all existing defaults, and to pay any and all outstanding amounts owed under this Agreement and the reasonable costs and attorneys'

fees incurred by Organization in connection with collecting under this Agreement. After confirmation of the curing of such defaults and the receipt of payment of such amounts, Organization shall direct Supra to reactivate the Equipment within twenty-four (24) hours.

d. In the event that Organization institutes any action for the collection of amounts due and payable hereunder, Keyholders shall pay, in addition to the amounts due and payable under this Agreement, all reasonable costs and attorneys fees incurred by Organization in connection with collecting under this Agreement. Keyholder expressly waives all rights to possession or use of the Service or the Equipment or any component thereof after the occurrence of an Event of Default, and waives all claims or losses caused by or related to any repossession or termination of use.

e. Organization's failure or delay in exercising any right or remedy under this Agreement shall not operate as a waiver thereof or of any subsequent breach or of such right or remedy. Organization's rights and remedies are cumulative, not exclusive, and no exercise of any remedy shall preclude the exercise of another remedy.

**10. ARBITRATION; LITIGATION** Any controversy or claim arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association or such other rules as may be agreed to by the parties. The arbitration shall be conducted in a location mutually agreed to by the parties. If the parties fail to agree on the location of the arbitration within thirty (30) days after either party requests arbitration, the arbitration shall be conducted in the city where Organization is located; provided that either party shall be entitled to participate in such arbitration by video conference or teleconference. The substantially prevailing party in any arbitration under this Agreement shall be entitled to recover from the other as part of the arbitration award reasonable costs and attorney's fees. Any arbitration award may be enforced by a court of competent jurisdiction in accordance with applicable law. In the event that legal action to enforce the arbitration award is necessary, the substantially prevailing party shall be entitled to recover its reasonable costs and attorney's fees in such action or any appeals.

**11. NOTICES** All notices hereunder shall be sent by (i) hand-delivery, (ii) facsimile, (iii) certified mail, return receipt requested, postage prepaid, or (iv) overnight delivery service, to the party being notified at its address set forth in the signature block of this Agreement, or to such other address as a party shall subsequently specify to the other party in writing. Notices shall be deemed to have been delivered when received, if hand-delivered or sent by facsimile or certified mail, three (3) days after the day deposited in the mail; or one (1) day after the day deposited with an overnight delivery service.

#### **12. TERMINATION**

a. Keyholder may terminate this Agreement at any time by returning the Equipment and Software to Organization and paying Organization any amounts owing prior to such termination, including (i) any applicable damages for the failure to return the Equipment and Software as set forth in Section 6(a) hereof, and (ii) any System Fees owing prior to such termination which remain unpaid. Upon termination, System Fees that would have become owing after the date of termination of this Agreement are released and discharged by Organization.

b. Organization may terminate this Agreement upon termination of the Master Agreement for any reason, including without limitation, a default by Organization under the Master Agreement or an upgrade of the Service by Organization. Upon termination, Keyholder shall be obligated to satisfy the obligations in Section 12(a).

**c. In the event that Keyholder fails to return all Equipment leased to Keyholder upon termination of this Agreement or at the expiration of the Term, Keyholder agrees to pay to Organization, as liquidated damages for such failure to return the Equipment, the amount set forth in Section 6(a).**

d. In addition, Keyholder shall not be entitled to any refund of any unused portion of the System Fee for use of the Service previously paid.

**13. WARRANTY** The Equipment and Software are warranted by Supra against defects in workmanship and/or materials, to be fit for the intended purpose and to conform in all material respects to its written specifications for the term of the Agreement. Supra shall, without charge, repair or replace such defective or nonconforming component for the term of the Agreement. Keyholder must return any defective system component under warranty to Organization at Keyholder's sole cost and expense and Organization shall provide all repaired or replacement Equipment to Keyholder. This warranty does not extend to any damage caused by accident, abuse, neglect or misuse of system components. Keyholder agrees to cooperate with Organization and Supra by performing diagnostic tests provided to Keyholder when Keyholder initially seeks warranty service.

#### **14. GENERAL PROVISIONS**

a. This Agreement constitutes the entire agreement between Organization and Keyholder relating to the Agreement of Equipment and use of the Service.

b. Provided that Keyholder has returned to Organization all keys previously leased by Organization to Keyholder, all prior leases between Organization and Keyholder for such keys are terminated effective as of the parties' execution of this Agreement.

c. This Agreement may be executed in a number of counterparts, each of which will be deemed an original and when taken together shall constitute one agreement.

d. Any waiver or consent by any party to any breach by the other, whether express or implied, shall not constitute a consent to or waiver of any other or subsequent breach.

e. All agreements, representations and warranties contained in this Agreement shall survive the expiration or other termination of this Agreement.

f. If any provision of this Agreement is unenforceable, such unenforceability shall not affect the enforceability of the remaining provisions of this Agreement.

g. This Agreement shall be governed by the laws of the State in which Organization is located.

h. This Agreement shall be binding upon and inure to the benefit of Organization, and its successors and assigns, and Keyholder and its permitted successors and assigns.



This is a legal document. Execution of this Agreement, including the preceding 3 pages in addition to this page, shall obligate the parties to perform as provided herein.

**Multiple Listing Service of the Bonner County Association of REALTORS®, Inc.**

**SIGNATURES:**

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date set forth herein.

**For Keyholder:**

**For Organization:**

By: \_\_\_\_\_ By: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, & Zip Code: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Date: \_\_\_\_\_

Agent ID: \_\_\_\_\_

-----  
**TERM OF AGREEMENT:**

The term of this Agreement commences on the date set forth in the signature block and ends on **November 16, 2022** unless terminated earlier as provided in Section 12 of the Agreement.

-----  
**LEASED AND LICENSED PRODUCT INFORMATION:**

**Returned Key Serial #:** \_\_\_\_\_

**New Key Serial #:**

XpressKEY: \_\_\_\_\_ or

eKEY Basic Software: \_\_\_\_\_ or

## Appendix C: Lockbox Key Lease Agreement (continued)

### XpressKEY Sublease Agreement Addendum

Keyholder acknowledges receipt from the MLS of the Supra XpressKEY or eKEY (hereinafter referred to as “Key”) Serial Number \_\_\_\_\_ and its confidential PIN code.

Keyholder agrees to immediately notify the MLS if Keyholder transfers from one Broker/Participant Company to another Broker/Participant Company and to take appropriate steps to ensure that the Key is promptly reprogrammed to show Keyholder’s correct Company affiliation.

Keyholder acknowledges that the Key must be reactivated by means of an **update code every day** to continue its further use, and that the Keyholder is responsible for this reactivation. Update codes will only be issued to Keyholders who are in good standing with the MLS and who comply with the MLS Rules & Regulations as adopted by the MLS Board of Directors.

During the term of this Agreement, the annual rent for the lease and use of the Key shall be paid by Keyholder to the MLS in such amounts and under such terms and conditions as may be set by the MLS Board of Directors from time to time.

Keyholder agrees to return the Key to the MLS within 48 hours after receipt of written request to do so by the MLS, OR within (three) 3 business days of the following events:

1. Termination of Keyholder as an active member in good standing with the Multiple Listing Service.
2. The arrest and/or conviction of the Keyholder for any felony or misdemeanor which either relates to the real estate business or, in the determination of the MLS, is of a nature such that Keyholder may pose a risk to clients, customers, or other real estate professionals.
3. Termination of the contract between the MLS and UTC Fire & Security Americas Corporation, Inc. (UTCFS).

Keyholder agrees to reimburse the MLS for all expenses incurred as a result of the MLS’s attempts to recover the Key from the Keyholder if Keyholder fails to surrender the Key in accordance with this Agreement and Addendum. In the event the MLS commences legal proceedings against Keyholder to recover the Key or to enforce or interpret any of the provisions of this agreement, Keyholder agrees to pay all costs incurred by the MLS, including its reasonable attorney’s fees.

Keyholder acknowledges that the cost to replace a Key is \$249.00 and \$40.00 for the Key face/glass. Keyholder agrees to pay the \$249.00 replacement cost should the Key be lost or damaged while in Keyholder’s possession. The MLS Board of Directors may, in its sole discretion and upon written notice to Keyholder, collect a \$249.00 partially refundable Key deposit from Keyholder at any time during the term of this Agreement, which a deposit of \$249.00 shall be refunded upon return of the Key and Key cradle in good operating condition to the MLS.

Keyholder agrees to:

1. Complete the mandatory Electronic Lockbox System Training prior to receiving the Key.
2. Keep the Key in Keyholder's possession or in a safe place at all times.
3. Keep the Key PIN code confidential and not attach it to the Key.
4. Not duplicate the Key or allow any other person to do so.
5. Not assign, transfer, or pledge this lease or the Key.
6. Immediately notify the MLS in writing of the loss or theft of the Key and the circumstances surrounding the loss or theft. A replacement Key will be issued to the Keyholder upon payment of the Key replacement fee and compliance with the terms and conditions of this Agreement and Addendum. Any subsequent replacement Key will be issued only upon authorization of the MLS.
7. Follow all additional security procedures as specified by the MLS.
8. Not use the Key to enter a property without permission.
9. Not loan the Key to any person, or permit the Key to be used by any other person, for any purpose whatsoever. "Other person" includes but is not limited to spouses, appraisers, lenders, utility agents, builders, inspectors, brokers, salespersons, prospective purchasers or sellers, or anyone else.

Keyholder covenants and agrees to indemnify and hold the MLS harmless from any and all liability, obligations, or demands against the MLS, including attorney's fees, incurred by the MLS as a result of Keyholder's loss or misuse of the Key or loss of Key use privileges. Keyholder covenants and agrees to indemnify and hold the MLS harmless from any and all costs and expenses, including attorney's fees, incurred by the MLS as a result of damage or injury to property or persons arising out of the use of the Key by the Keyholder or by any other person.

If any provision of this Agreement is held by any court to be invalid, void, or unenforceable, the remaining provisions shall continue in full force.

**I HAVE READ AND I UNDERSTAND ALL OF THE PROVISIONS OF THIS KEY LEASE AGREEMENT ADDENDUM, AND I AGREE TO ABIDE BY SAME.**

\_\_\_\_\_  
DATE: \_\_\_\_\_  
**KEYHOLDER'S SIGNATURE**

**MULTIPLE LISTING SERVICE OF THE SELKIRK  
ASSOCIATION OF REALTORS®**

By: \_\_\_\_\_ DATE: \_\_\_\_\_

## Appendix D: SELKIRK MLS IDX Opt-Out Form

### Purpose of Form

The IDX Program permits MLS Participants to display each other's active listings on certain public Internet web sites. **WHILE PARTICIPATION IN THE SELKIRK MLS IDX PROGRAM IS PRESUMED, A PARTICIPANT MAY ELECT NOT TO PARTICIPATE IN THE SELKIRK MLS IDX PROGRAM BY COMPLETING AND RETURNING THIS FORM TO THE SELKIRK MLS OFFICE.**

If a Participant opts out of the IDX Program, all of the listings for his/her firm will be excluded from display on other IDX Participants' web sites. In addition, the Participant opting out may not display other Participants' listings on his/her web site without specific permission from the Selkirk MLS. Any Subscribers licensed with the Participant opting out are then also ineligible to participate in the IDX program.

Completed forms may be mailed to the Selkirk MLS at 325 S. Marion Avenue, Sandpoint, Idaho 83864, or may be faxed to (208) 263-2153.

(Please Type or Print)

Firm Name \_\_\_\_\_

Designated Broker's Name: \_\_\_\_\_

Firm Office ID(s): \_\_\_\_\_

Firm Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Firm Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

I am the Designated Broker/MLS Participant for the Firm listed above. I have authority to execute this form on behalf of my own office and all other offices (if any) listed above. By opting out of the IDX Program, I understand that my Firm is not allowed to display other Participants' listings on my Firm's web site; properties listed by my Firm will not be displayed on web sites operated by Participants in the IDX program; and all Subscribers affiliated with my Firm may not participate in IDX or display other Participants' listings on their individual web sites.

Signature: \_\_\_\_\_

(Designated Broker/MLS Participant)

# Appendix 1

## Section 1: History and Background

Multiple listing, in one form or another, dates back into the nineteenth century. The first boards of REALTORS® were established as real estate exchanges. On certain appointed days, the members of a board of REALTORS® gathered at the board offices and exchanged information about their listings. They, in effect, carried on an auction, as they frequently came prepared to purchase certain property desired by their principals but listed by another broker. This practice was common in the 1880s and 1890s. Shortly after the end of the nineteenth century the term multiple listing came into use. It is mentioned as an activity of boards of REALTORS® as early as 1907.

By the 1920s, multiple listing had become widely accepted. The expansion of this function continued through succeeding years and spread throughout the country with the result that today hundreds of local associations of REALTORS® provide multiple listing services, in one form or another, to their members. **I**

## Section 2: National Association's Interest

The interest of the National Association in multiple listing is in assuring the proper operation of such an activity so that it furthers the objectives of the Code of Ethics, encourages cooperation between REALTORS®, and avoids practices which may be contrary to public policy or the law.

The recommendations of the National Association are in support of the following principles:

1. An association of REALTORS® should be representative of those engaged in the real estate business in the area which it serves. As a trade association, it should open its activities to all qualified persons and invite them to join in voluntary association for the good of the public.
2. Eligibility for association of REALTORS® membership should not require participation in a multiple listing activity if, in the opinion of the individual, such activity does not lend itself to his particular method of doing business.
3. Participation in any activity should be subject to rules that do not conflict with the public interest.
4. The association of REALTORS® should maintain its position as an organization serving a public interest and sustain its tax-exempt status.
5. Activities and services offered to REALTORS® should be under the direct supervision of the association of REALTORS® subject to the governing body of the association of REALTORS® and should not be conducted by a separate or independent group. In an instance where, in order to preserve the tax-exempt status of the association, it is necessary to organize the multiple listing service as a separate, for profit corporation, such corporation should be wholly owned by the association of REALTORS® and as such is ultimately accountable to the association of REALTORS®. **I**

## Section 3: Reasons for Association Ownership

An association of REALTORS® exists to provide the real estate services desired and needed by members to assist them in serving the real estate needs and interests of their clients, their customers, and the community.

The association is dedicated to the promotion of continuing real estate education and to the establishment and enforcement of high standards of professional conduct in all real estate transactions. As association members, REALTORS® and REALTOR-ASSOCIATE®s are committed to the strict Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® which obligates REALTORS® to cooperate in real estate transactions whenever it is in the interest of their clients.

The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS® by extending to them a blanket unilateral offer of compensation. If any significant group of REALTORS® desires to establish a means of extending blanket unilateral offers of compensation, the association should establish an MLS to enable them to achieve such objective. *(Amended 11/96)*

The MLS should be an association service or function for the following reasons:

The association exists. This means the service can be established less expensively and more quickly and should result in a fuller utilization of the association's personnel and equipment.

Every MLS, whether or not association affiliated, requires certain functions to be performed, including management, rule making and enforcement, and arbitration of disputes. Associations of REALTORS® have the existing organization and capacity to fulfill all these functions, and by doing so, are able to minimize the cost and improve the quality of the performance. *(Revised 11/96)*

Since REALTORS® are bound to a Code of Ethics and other obligations of association membership, it is desirable that such obligations be consistent with the obligations imposed by the MLS. This can only be assured if the MLS is subject to the control of the association, since the association cannot legally control an independent organization. Association control is especially important to avoid situations where the association is held responsible, at least in the minds of the public, for the conduct of an MLS not under its control simply because REALTORS® are members of such an MLS.

REALTORS® have worked hard to establish a reputation for integrity and professionalism; and they carry that image with them in all their transactions. If their cooperative transactions are through an association MLS, the association can better assure compliance with the applicable legal obligations and better defend the legitimate and essential rights of REALTORS® to do business.

In sum, a multiple listing service is just one of many services offered by an association of REALTORS®, but it is a useful and beneficial service to the members, their clients and customers, and the community. The association MLS offers efficiency, effectiveness, and economy of operation. It avoids duplication of effort and of cost. The community looks to the association for leadership in matters affecting real estate and hence would expect a multiple listing service to be operated by the association of REALTORS®. The association has the respect and confidence of the community it serves. Association members are committed to the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® and to its enforcement, including disciplinary proceedings and arbitration proceedings to resolve real estate complaints and disputes consistent with state law. The association MLS promotes harmony and cooperation among association members and remains, in proper perspective, an association service. **I**

## Appendix 2

### Protecting the Tax-Exempt Status of the Association of REALTORS®

Section 501 (c) (6) of the Internal Revenue code provides for the exemption of nonprofit real estate associations whose earnings do not inure to the benefit of any private shareholders or individuals. Pursuant to Section 1.501 (c) (6)-1 of the income tax regulations, a real estate association will not be entitled to an exemption unless it:

*. . . is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. . . . Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular service for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self sustaining, is not a business league.*

It should be noted that this regulation does not preclude a real estate association from engaging in a regular business of a kind ordinarily carried on for profit, as long as such business does not constitute the primary purpose for the organization's existence. In fact, the regulation strongly suggests that a real estate association could engage in some business activities without loss of exemption by providing that organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income.

Thus, the purpose of this discussion is to consider whether real estate associations operating multiple listing services can qualify for a Section 501 (c) (6) exemption.

This inquiry involves two separable questions:

1. Is the operation of an MLS ordinarily a not-for-profit activity?
2. Will the operation of a profitable MLS cause the real estate association to forfeit its Section 501 (c) (6) exemption?

The position of the Internal Revenue Service with respect to the first of these questions is clear. Revenue Ruling 59-234, 1959-2 C.B. 149 holds that an MLS is a business ordinarily carried on for profit and inherently designed to render particular services to individual members. The service reached this conclusion notwithstanding that the purpose of an MLS, generally, in the service's own words, is:

*(a) to assist members of the board in rendering better service to the public by creating a broader and more active market for real estate; (b) to stimulate and facilitate the transaction of business between members of the board through cooperation and exchange of exclusive listings; (c) to provide a medium through which real estate may be merchandized more efficiently and expeditiously to the advantage of both buyer and seller; and (d) to encourage REALTORS® to uphold high standards of business practice and to further educate them in adhering to the principles of the REALTORS® Code of Ethics.*

The Court of Claims, in *Evanston-North Shore Board of REALTORS® v. U.S.*, 162 Ct. Cl. 682, 320 F.2d 375 (1963), cert. den. 376 U.S. 931 (1964), followed Rev. Rule. 59-234 in denying exempt status to a real estate association with a mandatory multiple listing service. While the court specifically found that Evanston-North Shore's MLS was operated primarily for the benefit of its members, there is dictum which suggests that a real estate association might escape the application of Rev. Rule. 59-234, given the right circumstances.

Assuming that a multiple listing service is a business ordinarily carried on for profit, it does not follow that the operation of an MLS should cause a real estate association to forfeit its Section 501 (c) (6) exemption. Arguably, the operation of an MLS qualifies as a business activity ancillary to the primary purpose of a real estate association which, as required by Reg. Section 1.501 (c) (6)-1, is “. . . to promote (a) common interest and . . . (improve) business conditions . . . distinguished from the performance of particular services for individual persons,” rather than constituting the primary purpose for the association's existence. Thus, if the primary purpose of a real estate association is to improve business conditions as opposed to operating an MLS, the association should be eligible for a Section 501 (c) (6) exemption.

The basic problem facing a real estate association operating an MLS is demonstrating that the primary purpose for its existence is to conduct activities dedicated to the improvement of local business conditions (within the meaning of Reg. Section 1.501 (c) (6)-1) and that any other financial activities, including the MLS, are ancillary to such purpose.

A summary of specific methods and procedures that should be followed and adequately documented by the association to demonstrate entitlement to tax exemption is presented as follows:

- 1. Association to Document Its Overall Program of Activity:** The leadership of the association should ensure that the objects of the association, as set forth in the bylaws, establish a clear and articulate picture of what the association is and what the purposes and objectives of the association are considered to be. In addition to the description found in the bylaws of the association, the leadership should ensure that it documents, in some further form, any and all participation by association members in the programs, activities, and projects of the local association, as well as those of the state association and of the National Association.
- 2. Multiple Listing Service to Be Operated as Incidental Activity of the Association:** The leadership of the association should ensure that it is clearly understood by all of the association members, and particularly by those who participate in the multiple listing service, that the multiple listing service is owned and operated by the association as just one of the many activities of the association and is of an incidental nature rather than being of a predominant nature as an activity of the association.

The articles of the bylaws of the association of REALTORS® should clearly delineate the multiple listing service as being a service of the association, should describe whether it will be operated as a committee of the association or as a wholly-owned subsidiary corporation with all of the stock owned by the association of REALTORS®, and should indicate that any bylaws and/or rules and regulations of the MLS will be subject to final approval by the board of directors of the association of REALTORS®. It is important that the authorizing article in the association's bylaws spell out all of the details clearly as to the association's multiple listing service, and it is recommended to associations of REALTORS® that they adopt Article XVIII of the model bylaws recommended to member associations by the NATIONAL ASSOCIATION OF REALTORS®. The adoption of this article will ensure the appropriate authorization and implementation of an association MLS.

Whether the multiple listing service should be operated as a committee of the association or as a wholly-owned subsidiary, is a matter to be determined by the local association with advice of its accountant and its association legal counsel. In this connection, there are a variety of considerations which must be reviewed, including, of course, the differential in the tax rate applicable to unrelated business income of an association and the income of a for-profit corporation. Generally, it is recommended by the National Association that a multiple listing service be operated as a committee of the association and that all the necessary effort be made to ensure that the association maintains its tax-exempt status. However, as indicated, it is necessary for the association and its members to be completely aware of the special effort that must be made to maintain the proper perspective of the multiple listing service as compared to overall association activity. Generally speaking, the association must be able to demonstrate that the annual budget of the MLS as compared to the overall annual budget of the association of REALTORS® is less than 50% and preferably less than 30%. Lawrence B. Jerome, a former Chief of the Exempt Organizations Branch of the Internal Revenue Service, is now retired from the Internal Revenue Service, and served as a consultant to the National Association on tax matters. Mr. Jerome, in an article published in *The Executive Officer*, September, 1974, states, "The IRS has never published a position on how significant particular services must be to cause loss of exemption," but that he generally believed that, "fairly sound guidelines" are that loss of exemption is clearly indicated if the performance of particular services exceeds 50% of an association's total activities. He further expressed an opinion that tax exemption for the association is likely to be challenged and revocation of the tax exemption becomes a strong possibility if particular services (i.e., MLS) are more than 30% of an association's activities, unless there are other issues or mitigating circumstances. Mr. Jerome warned that, "the foregoing guidelines can change drastically if the IRS modifies its interpretations or if the courts begin to take a harder or softer stand in this area." In summary, however, the safest position that an association can take is to ensure that the unrelated business income represented by funds received from the MLS operation bears the smallest feasible percentage ratio to the overall budget of an association as possible. This is the most convincing proof that a multiple listing service is, in fact, just one of the many worthwhile activities of an association of REALTORS®.



If, however, the association concludes with advice of its accountant and association legal counsel that it cannot sustain the necessary relationship of an incidental activity as a committee of the association and still preserve its tax-exempt status as an association, or if the tax consequences of such a relationship are seriously adverse, then it should consider the alternative method of operating the MLS as a wholly-owned subsidiary of the association, with all stock of the subsidiary corporation owned by the association of REALTORS® and with any bylaws and/or regulations subject to final approval by the board of directors of the association. Operated as a wholly-owned subsidiary, the multiple would maintain its own budget, separate and apart from the association, and would pay taxes on any surplus accruing at the end of its fiscal year. The operation of the multiple as a taxable, for-profit corporation would be similar in certain respects to the operation of a nonprofit corporation—for example, the multiple could still accrue and maintain a reasonable surplus for continued operation in times of economic downswings or to maintain and improve the facilities required to operate the multiple listing service.

It is specifically noted that the taxes are due and payable on any surplus of funds accruing to the MLS at the end of the fiscal year, irrespective of whether the multiple listing service is operated as a committee of the association or as a wholly-owned subsidiary. This is true because of the determination by IRS that a multiple listing service is the type of business ordinarily carried on for profit and that it provides a particular service to the member participants and, as such, the income derived is classified as unrelated business income. Hence, it is emphasized that an association must always pay tax on its MLS operation providing unrelated business income irrespective of how the MLS is structured.

In either case, whether as a committee or as a wholly-owned subsidiary corporation, action should be taken by the multiple listing service to ensure that it operates basically on a break even basis. Whenever a reasonable operating reserve has been accumulated, it is time to reduce income being generated by the MLS to a point close to break even. The multiple listing policy of the National Association establishes that charges for multiple listing in an association service will approximate the cost incurred in providing the service to the member participants. The MLS should not be a primary source of funding for an association of REALTORS®, at least while its membership is limited exclusively or primarily to association members. Reduction or elimination of service fees, listing fees, or subscription charges should be made as necessary to operate the MLS at or close to the desirable breakeven point.

**3. Documentation of Staff Time Devoted to the Multiple Listing Service:** The association should be prepared to demonstrate the number of staff personnel whose time is utilized in the operation of the multiple as opposed to the total number of staff involved in the overall operations of the association. The records maintained to document this should also establish the type of personnel operating the multiple. For example, the successful effort of one association to maintain its tax-exempt status cited the fact that only three members of a staff of ten were assigned to full-time work with the multiple listing service and that these personnel were clerical type employees. The remaining members of staff had only incidental duties related to MLS, and it was indicated that minimal duties of the executive vice president of the association related to the operation of the service. This served to clearly demonstrate that a major portion of the staff's efforts were related to the overall operation of the association and that the MLS operation required only approximately 30% of staff for its operation.

**4. Value Analysis of Noncompensated Services of Members of the Association:** The association should prepare and maintain, as a continuing documentation, a comprehensive value analysis of the noncompensated time and service provided by members of the association to conduct the many and varied activities, programs, and projects of the association. In any association of REALTORS®, association activities are primarily conducted through the efforts of association members donating many valuable hours of their time. To purchase such services as are donated by the members of the association of REALTORS® would be prohibitive for most associations. These services represent value contributed by the members and value received by the association, and careful documentation can serve to establish the considerable monetary value of such activities. When the total monetary value is determined by calculation of the hours of such service provided and the establishment of a reasonable value for such services, this value can be added to the overall gross income of the association, and if appropriately verified, should prove acceptable to the Internal Revenue Service should a challenge arise to the tax-exempt status of the association. Appropriate forms for documenting this type of noncompensated time and service by association members are attached as Appendices 6 and 7 of this Handbook.

5. **Committees of the Association:** The multiple listing committee (if MLS is operated as a committee of the association) is only one of the many committees of the association of REALTORS®. The association should document and be prepared to demonstrate at any time the total number of committees and total number of members serving on these committees. An appropriate listing of all of the committees of the association, with attendant statement of organization and procedure, will document that in addition to multiple listing, the association provides a broad and myriad program of activity, including effective orientation programs, continuing educational programs to improve and elevate the professional status and competency of its members, community affairs programs, legislative action programs, professional standards and arbitration proceedings, equal opportunity programs, affirmative marketing programs, membership recruitment programs, and many other such activities. Similar comparative documentation can be made when the MLS is a wholly-owned subsidiary of the association and is governed by a board of directors, subject to approval of the board of directors of the association of REALTORS®.
6. **Analysis of Agenda of Board of Directors:** A ready source of authoritative documentation is available to any association of REALTORS® to substantiate the fact that it has a broad spectrum of programs and activities, of which the multiple listing service is only a part. This documentation source is the minutes of the board of directors of the association. These minutes reflect the ongoing business of the association, as discussed by the directors, and the number of times any item appears in the minutes in ratio to the number of times other items are discussed, which reflects its proportionate importance. Therefore, in most cases, it can be readily shown that such minutes reflect the discussion of many and varied items in overwhelming proportion to the times the multiple listing service is discussed. In the documentation provided to the Internal Revenue Service by one association of REALTORS®, an analysis of this type reflected that the MLS of the association was discussed 31 times in a given period of time, whereas other items of association activity were discussed 396 times. This served eloquently to reflect the fact that MLS was an incidental activity of the association in a well-rounded program of activity.
7. **Time for Association Plan to Attain or Maintain Tax-Exempt Status:** Now is the time. It has been demonstrated in several instances cited in the preceding paragraphs that careful and comprehensive documentation is essential and can be successful in obtaining and/or maintaining the tax-exempt status of an association of REALTORS® operating a multiple listing service. Compiling such records requires both planning and careful execution to ensure that they accurately demonstrate a true picture of the multiple's position as an incidental activity of the association. These records do not appear spontaneously. If your association possesses tax-exempt status as an association, or plans to apply for such exempt status in the future, the time to begin the essential record-keeping is now. It can be done and should be done on a continuing basis with advice of the association's accountant and legal counsel.

Further questions or information concerning tax-exempt status of your association should be directed to Board Policy and Programs of the National Association. Any successful effort by an association to obtain or maintain tax-exempt status is welcomed by the National Association. It is also recommended to associations of REALTORS® having lost tax-exempt status at some point that every effort be made to regain such exempt status at the earliest possible time. **I**

## Appendix 3

### Model LockBox Authorization Addendum\*

The undersigned (**seller**) having entered into a listing agreement with \_\_\_\_\_ (**broker**) dated \_\_\_\_\_ pertaining to the sale of \_\_\_\_\_ (**premises**) hereby authorizes **broker** to use a lock box.

**Seller** acknowledges:

1. A lock box is designated as a repository of a key to the above premises, permitting access to the interior of the premises by participants of the multiple listing service (MLS), and their authorized licensees.
2. **Broker** advises and requests **seller** safeguarding or removal of valuables now located within said premises.
3. It is not a requirement of MLS or **broker** that a **seller** allow use of a lock box.
4. Where a tenant/lessee occupies the property, the tenant's/lessee's consent is required.

**Seller** further acknowledges that neither the listing **broker**, any subagent of the listing **broker**, or any other cooperating broker, the association of REALTORS®, or the MLS is an insurer against the loss of **sellers'** personal property; **seller** is advised to verify the existence of, or obtain personal property insurance through **sellers'** insurance agent.

Receipt of a copy is hereby acknowledged:

Date : \_\_\_\_\_ Date: \_\_\_\_\_

**Seller:** \_\_\_\_\_  
Name (Type/Print)

**Broker:** \_\_\_\_\_  
Name (Type/Print)

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

**Seller:** \_\_\_\_\_  
Name (Type/Print)

By: \_\_\_\_\_  
Signature

**Tenant:** The **tenant** and **broker** have discussed the safeguarding and insuring during the listing period, of personal property and valuables located within said premises. The undersigned approves the above provisions and authorizes placement of a lock box on the premises.

Receipt of a copy is hereby acknowledged:

Date: \_\_\_\_\_ **Tenant:** \_\_\_\_\_  
Name (Type/Print) Signature

\*Adoption and use of this specific form is at the option of the association of REALTORS®. Association legal counsel should be consulted before this or any other form is provided by the association to association members.

## Appendix 4

### Select Interpretations from the Official Interpretations of Article I, Section 2 of the NATIONAL ASSOCIATION OF REALTORS® Bylaws as Referred to in this *Handbook*

#### **INTERPRETATION NO. 1** (*Adopted November 15, 1960*)

**“A requirement to participate in a Multiple Listing Service in order to gain and maintain REALTOR® membership is an inequitable limitation on its membership.”**

When a Multiple Listing Service is available, is well operated and properly organized, it is the duty of the REALTOR® to consider thoroughly whether he can serve the best interests of his clients by participating in it. The decision, however, must be his own. As a REALTOR®, it is possible for him to conduct his business in an ethical and efficient manner without participating in a Multiple Listing Service. Therefore, his participation must not be a requirement of REALTOR® membership.

#### **INTERPRETATION NO. 2** (*Adopted January 24, 1961*)

**“An initiation fee in excess of three times the amount of the annual rates of dues is an inequitable limitation on its membership.”**

Member Boards must not place unreasonable burdens on applicants for membership. The requirements for membership must be reasonable and nondiscriminatory.

The initiation fee, if any, charged by a Board must not constitute an unreasonable barrier to membership of a person otherwise qualified. Nor should a Board seek to finance its activities and operations from initiation fees.

The National Association deems any initiation fee in excess of three times the amount of the annual rates of dues, including state and national, to be unreasonable and therefore inequitable.

Since under Interpretation No. 1, participation in a Board Multiple Listing Service is not mandatory, the Board initiation fee, if any, must be separate from any participation fee which may be charged for the Multiple Listing Service.

#### **INTERPRETATION NO. 6** (*Adopted January 24, 1961*)

**“Any regulation restricting or limiting the practice of a REALTOR® in the conduct of his business, unless it concerns ethical practice, is an inequitable limitation on its membership.”**

This Interpretation establishes a rather general guide to the type of rules which a Board may adopt, i.e., in furtherance and support of the Code of Ethics, but guards against the type of rules which unreasonably restrict the Member in the conduct of his business on a basis other than related to the Code of Ethics.

The intent of this Interpretation is to avoid the necessity of the Board of Directors passing upon innumerable details about which Boards constantly inquire. The administrative staff is under instruction to advise a Member Board, upon inquiry, as to whether a practice or proposed rule appears to be inconsistent with, or in violation of, the Bylaw against inequitable rules. If the Member Board then wishes to request an official interpretation by the Board of Directors, it may do so.

Any Member also is entitled to an interpretation upon request. However, as a matter of policy, the National Association prefers that inquiries come from Member Boards. It cannot, however, deny any Member the right to request an interpretation.

**INTERPRETATION NO. 9** (*Adopted January 24, 1961, Revised May 8, 1973*)

**“Requirement of a ‘Waiting Period’ before being considered for REALTOR® membership is not an inequitable limitation on its membership if related to the period of time necessary to process the application, not to exceed six months.”**

It is consistent with assurance of ethical business practice for a Board of REALTORS® to require that an applicant for membership submit an application detailing past history.

The National Association, as a matter of policy, urges thorough investigation into the background of applicants for membership. This affords the Board an opportunity to investigate the individual’s business conduct and record.

An applicant is entitled to prompt consideration of his application and final disposition of such application must be made within six months.

**INTERPRETATION NO. 10** (*Adopted May 9, 1961, Revised November 12, 1988*)

**“A Board rule purporting to require a REALTOR® who holds an exclusive listing to give blanket consent to either subagents or cooperating brokers representing buyers to arrange appointments to show listed property directly with the owner or to negotiate the purchase of listed property directly with the owner, rather than through the listing broker, obstructs observance of Article 3, and thereby is an inequitable limitation on its membership.”**

This Interpretation affirms the basic agency relationship between the listing broker and his principal as defined in the listing contract. A Board or MLS rule may not properly interfere with or supersede the relationship established by the terms of the agreement between the broker and his principal.

The cooperating broker as a subagent of the listing broker or as an agent of the buyer enjoys only such rights to show or sell the listing as are granted to him by the listing broker who is ultimately responsible to the principal.

**INTERPRETATION NO. 11** (*Adopted May 9, 1961*)

**“A rule of a Member Board prohibiting the acceptance of open listings by Members is an inequitable limitation on its membership.”**

Although the Preamble of the Code of Ethics places upon the REALTOR® the aspirational ideal that he “urge the exclusive listing of property . . . ,” it does not provide that a nonexclusive listing should not be accepted.

The REALTOR® must be free to enter into any form of listing contract mutually agreeable to the REALTOR® and the client.

**INTERPRETATION NO. 14** (*Adopted May 9, 1961, Revised January 26, 1971*)

**“A Member Board rule or practice which requires Members to adhere to a schedule of fees or commissions, or which authorizes or includes the preparation or publication of a recommended schedule of fees or commissions, is contrary to the Code of Ethics and to the policy of the NATIONAL ASSOCIATION OF REALTORS® and is an inequitable limitation on its membership.”**

**INTERPRETATION NO. 15** (*Adopted May 9, 1961*)

**“A Board rule prohibiting REALTORS® or their salesmen from accepting elective or appointive public office, or requiring their resignation if they accept such office, is an inequitable limitation on its membership.”**

**INTERPRETATION NO. 16** *(Adopted May 9, 1961)*

**“A Board rule prohibiting employment of married women as salespersons is an inequitable limitation on its membership .”**

This Interpretation is a specific application of the general policy of Interpretation No. 20.

**INTERPRETATION NO. 17** *(Adopted November 16, 1961)*

**“A Board rule imposing an age limit upon applicants for membership is an inequitable limitation on its membership .”**

Age is not a reasonable criterion for membership.

**INTERPRETATION NO. 21** *(Adopted November 12, 1962)*

**“A Board rule regulating the number of married women that may be employed is an inequitable limitation and comes within Interpretation No. 16.”**

**INTERPRETATION NO. 25** *(Adopted May 11, 1965)*

**“A Board rule which prevents the participation of a REALTOR® Member, on equal terms with other REALTOR® Members, in a Multiple Listing Service sponsored, organized or sanctioned by the Board, and which is available to REALTOR® Members throughout the Board’s jurisdiction, is an inequitable limitation on its membership.”**

A Board rule which makes services available to some REALTOR® Members, but not to other REALTOR® Members, when such services are available generally throughout the Board’s jurisdiction, is an inequitable limitation upon the membership.

**INTERPRETATION NO. 26** *(Adopted May 10, 1966, Revised November 16, 1977)*

**“A Board rule prohibiting the posting by members of ‘for sale’ or other similar signs on property for which the member is agent is an inequitable limitation on its membership.”**

The right to display “for sale” or other similar signs reasonably designed to inform the public is protected by the First Amendment to the United States Constitution. Thus, any rule prohibiting the posting of such signs would be an unconstitutional infringement of the freedom of speech of the REALTOR® and his client. Similarly, a Board owned or operated Multiple Listing Service may not endorse any programs by municipalities, civic groups or civil rights organizations to ban or curtail signs, even if such programs are “voluntary,” because of the “chilling effect” such endorsement might have on the exercise of First Amendment rights.

**INTERPRETATION NO. 29** *(Adopted May 8, 1973)*

**“Application and entrance fees for participation in an Multiple Listing Service, owned by, operated by or affiliated with a Board of REALTORS®, in excess of the approximate cost, including the accumulation and maintenance of reasonable reserves, of developing, maintaining, or improving the organization as a going concern, is an inequitable limitation on the membership.”**

All services of a Board of REALTORS®, including Multiple Listing Service, should be available to all REALTOR® Members without restrictive entrance and application fees. Such fees should be related to the approximate costs of bringing the Service to the member and must not be computed on the basis of the number of listings of a Multiple Listing Service or on the basis of a pro rata share of its assets.

**INTERPRETATION NO. 30** *(Adopted May 8, 1973)*

**“Enforcement of the Code of Ethics by any group, within or without the Board of REALTORS®, other than the Professional Standards Committee and the Board of Directors of the Board of REALTORS®, is an inequitable limitation on its Members.”**

Member Boards are required by Article IV of the Bylaws of the National Association to enforce membership compliance with the Code of Ethics. This obligation is properly fulfilled by the Professional Standards Committee and the Board of Directors of the Board. Delegations of this function by the Board to any other body, such as a Multiple Listing Committee, is not appropriate.

**INTERPRETATION NO. 31** *(Adopted May 8, 1973, Revised January 31, 1977)*

**“A Board rule or a rule of a Multiple Listing Service owned by, operated by or affiliated with a Board, which establishes, limits or restricts the REALTOR® in his relations with a potential purchaser, affecting recognition periods or purporting to predetermine entitlement to any award in arbitration is an inequitable limitation on its membership.”**

In essence, this is a specific interpretation of the general rule established in Interpretation No. 6 that a Board may not have a rule which restricts or limits the REALTOR® in the conduct of his business unless it concerns ethical practice. Thus, a rule of a Board or Multiple Listing Service which would determine a protection period in reference to a prospective purchaser is an inequitable limitation. Further, the Board or its MLS may not establish a rule or regulation which purports to predetermine entitlement to any awards in a real estate transaction. If controversy arises as to entitlement to any awards, it shall be determined by a hearing in arbitration on the merits of all ascertainable facts in the context of the specific case of controversy.

**INTERPRETATION NO. 32** *(Adopted May 8, 1973)*

**“The inclusion in the dues payable by Board Members of costs of services or activities of the Board which properly should be optional is an inequitable limitation on its membership.”**

The dues payable by Board Members should represent the allocable costs of the services and facilities which are available to and benefit the Members generally, either directly or indirectly. It should not include the costs of those services or facilities which can be identified as optional. Thus, for example, the cost of participating in the Board’s MLS should not be included as part of Board dues since whether a Member determines to participate in such an activity will depend upon the Member’s particular method or type of business. The reasonable cost of meals at general membership meetings held pursuant to the Board’s Bylaws may be included in Board dues since such meetings are necessary to the operation of the Board as a whole provided that no more than 35% of the local allocation of the Board’s annual dues revenue may be utilized for this purpose.

**INTERPRETATION NO. 33** *(Adopted February 5, 1974)*

**“It is an inequitable limitation to deny membership to an applicant who maintains an office for the conduct of a real estate business which is open for business during the normal business hours, recognized in the community, and who holds himself out to the public as being actively engaged in real estate business solely upon the grounds the applicant is not so engaged.”**

This Interpretation does not contemplate that the broker must devote all or even a majority of his time to his real estate business or derive any particular percentage of his income from such business. It does not contemplate that the licensee shall have no other job or occupation. It does contemplate that the licensee shall actively seek real estate business; that he shall maintain and adequately supervise a real estate office.

Where question arises as to whether or not a licensee is “actively engaged” in the real estate business, he shall be given the opportunity to present evidence concerning the actual and intended nature and scope of his business activities.

**INTERPRETATION NO. 34** *(Adopted November 12, 1974)*

**“It shall be an inequitable limitation for a Board to require a separate office in each Multiple Listing Service area where there is more than one Multiple Listing Service owned or controlled by the Board within the jurisdiction of the Board in order to participate in each such Multiple Listing Service.”**

A REALTOR® is entitled to participate in any and all services and programs sponsored by the Board of REALTORS®. A Board rule which circumscribes the right to such participation restricts and limits the conditions of Board membership in violation of Article I,

Section 2, of the Bylaws of the NATIONAL ASSOCIATION OF REALTORS®.

To institute a divisional Multiple Listing Service based on geographic lines within a Board’s jurisdictional area limits access to Board services and activities in a way which could be deemed and adjudged arbitrary and unreasonable.

As such, it is merely an extension of Interpretation No. 25 in that it refers specifically to the right of a REALTOR® to participate in a Board-owned-and-controlled Multiple Listing Service and any geographic division thereof without the necessity of having an office within said geographic division.





# Selkirk Association of REALTORS®

## Multiple Listing Service

### Change Form

**Use ONE (1) form per MLS #. Incomplete forms, incorrect forms, or forms with more than ONE (1) MLS # will NOT be processed or considered submitted under the MLS rules.**

#### Listing Information

MLS #: \_\_\_\_\_ List Price: \_\_\_\_\_ Today's Date: \_\_\_\_\_  
 Property Address: \_\_\_\_\_  
 Listing Agent: \_\_\_\_\_ Listing Office: \_\_\_\_\_

#### Changes

Withdraw (**temporary off-market status**) – Effective Date: \_\_\_\_\_

Cancel (**termination of representation**) -- Effective Date: \_\_\_\_\_

Delete (**for clerical errors only**) – Effective Date and Reason: \_\_\_\_\_

\_\_\_\_\_

Other:

#### Close This Listing(All 6 fields must be completed)

Closed Date: _____	Financing (Circle one from the list below):
Closed Price: _____	Assumption IHA
Selling Agent: _____	Cash Lease Option
Co-Selling Agent: _____	Cash/Loan Owner Carry
Concessions: _____	Conventional Refinance
_____	Exchange USDA
_____	Cash/Loan Veterans
(Maximum of 50 Characters)	FHA
	Refinance

**Note:** It is the Listing Participant's responsibility to obtain the seller's signature on the appropriate contract documents prior to submitting this form. In addition, Listing Participant must maintain and be able to provide copies of signed contract documents to the MLS upon request. **DO NOT SEND COPIES OF CONTRACT DOCUMENTS WITH THIS FORM UNLESS REQUESTED BY MLS STAFF. Broker's signature is required on this form.**

Agent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Broker's Signature: \_\_\_\_\_ Date: \_\_\_\_\_