

**DAYTONA BEACH AREA ASSOCIATION OF REALTORS®, INC.**

**1716 Ridgewood Avenue, Holly Hill, FL 32117-1796**

**MULTIPLE LISTING SERVICE  
RULES AND REGULATIONS**

**Multiple Listing Service**

**1. Authority.**

The Daytona Beach Area Association of REALTORS® shall maintain for the use of its Members a Multiple Listing Service which shall be subject to the Bylaws of the Association and such rules and regulations as may be hereinafter adopted.

**2. Purpose.**

A Multiple Listing Service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease). (Amended 11/04)

**3. Participation.**

- (a) **Any REALTOR®** of this or any other association who is a principal, partner, corporate officer, or branch manager acting on behalf of the principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license and are capable of offering and accepting 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/Board Multiple Listing Service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by an Association/Board Multiple Listing Service where access to such information is prohibited by law. (Amended 11/96)
- (b) **A nonmember** applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he/she has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; shall agree that if elected as participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the non-member differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license and are capable of offering and

accepting 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/Board Multiple Listing Service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an Association/Board Multiple Listing Service where access to such information is prohibited by law. (Amended 11/96)

- (c) **Generally**, Associations of REALTORS®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS Participant. Brokers or salespersons other than principals are not considered "Participants" in the Service, but have access to and use of the Service through the principals with whom they are affiliated.

#### **4. Supervision.**

The activity shall be operated under the supervision of the Multiple Listing Committee, in accordance with the rules and regulations, subject to the approval of the Board of Directors.

#### **5. Appointment of Committee.**

The President shall appoint, subject to the confirmation of the Board of Directors, a Multiple Listing Committee of no less than nine (9) REALTOR® Members. The Chairman shall be appointed by the President and becomes a member of the Board of Directors.

#### **6. Vacancies.**

Vacancies in unexpired terms shall be filled as in the case of original appointees.

#### **7. Attendance.**

Any Committee member who fails to attend three (3) consecutive regular or special meetings of the Committee, without excuse acceptable to the Chairman of the Committee, shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

#### **8. Access to Comparable and Statistical Information.**

Association Members who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Association Members and individuals affiliated with Association Members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the MLS rules and regulations. Association members who receive such information, either as a Association service or through the Association's MLS, are subject to the applicable provisions of the MLS rules and regulations whether they participate in the MLS or not.

#### **9. Subscribers.**

Subscribers (or users) of the MLS include non-principal brokers, sales associates and licensed and certified appraisers affiliated with participants and as specified in the Multiple Listing Service rules and regulations. Thompson Brokers only have access to the MLS system to enter and modify their own listings and to view other active and contingent listings, consistent with Section 8, Categorization of MLS Services, Information, and Products of the National Association of REALTORS® Handbook on Multiple Listing Policy.

Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under direct supervision of an MLS participant or the participant's designee. (Adopted 4/92)

## Listing Procedures

**Section 1 – Listing Procedures:** Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of Multiple Listing Service, and are taken by participants on the property data form shall be delivered to the Multiple Listing Service within 48 hours 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.

**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:

1. may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants
2. assure that no listing form filed with the Multiple Listing Service establishes, directly or indirectly, any contractual relationship between the Multiple Listing service and the client (buyer or seller)

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:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (e) 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 compilations of current listings. (Adopted 11/92)

**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)

1. residential
2. residential income
3. subdivided vacant lot
4. land and ranch
5. business opportunity
6. motel-hotel
7. mobile homes (Note, must include land to be included in the local MLS and be taxed as real estate. Section 320.77(1)(a), Florida Statutes, defines "dealer" as follows: "Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more mobile homes in any 12-month period shall be prima facie presumed to be a dealer . . .")

In addition, the definition of a "mobile home broker" in Section 320.77(1)(b) includes "any person who acts as the agent or intermediary on behalf of the owner or seller of a used mobile home which is for sale, or who assists or represents the seller in finding a buyer for the mobile home." So, either a "dealer" or "mobile home broker" license is needed. (These sections include exemptions for lenders who repossess and subsequently sell homes, and mobile home lease/rental companies that sell homes to licensed dealers.)

8. mobile home parks
9. commercial income
10. industrial

**Section 1.1.1 – Listings Subject to Rules and Regulations of the Service:** Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the rules and regulations of the Service upon signature of the seller(s).

**Section 1.2 – Detail on Listings filed with the Service:** A listing agreement or property data form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

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

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

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

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

### **Section 1.2.2 MLS Entry-Only Listings**

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

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

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

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

**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 does not desire the listing to be disseminated by the Service.

**Section 1.4 – Change of Status of Listings:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service within forty-eight (48) hours (except weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.

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

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

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

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

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

**Section 1.9 – No Control of Commission Rates or Fees Charged by Participants:** The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and non-participants.

**Section 1.10 – Expirations 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)

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

**Section 1.12 – Jurisdiction:** Only listings of the designated types of property located within the jurisdiction of the Multiple Listing Service 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.

**Note:** Associations must choose whether the service will accept listings from beyond its jurisdiction into the MLS compilation. (Amended 11/88)

While Boards and Associations are encouraged to work cooperatively to establish market area Multiple Listing Services, the absence of such an agreement shall not preclude any Board or Association from establishing and maintaining a Multiple Listing Service whose territory exceeds that of the parent Board or Association. Where the territory of an MLS exceeds that of their parent Board(s) or Association(s), the authority of their MLS to require offices of a participant or a participant's firm to participate in the MLS is limited to offices located within the jurisdiction of the Board's or Association(s) of REALTORS® that own and operate the MLS or that are parties to a multi-Board or regional MLS service agreement. MLSs may, as a matter of local determination, require that each of a firm's offices located within the jurisdiction of the Board(s) or Association(s) that own and operate the MLS or that are parties to a multi-Board or regional MLS service agreement participate in the MLS if any office of that firm participates in that MLS.

**Area Served:** Beginning at the intersection of the Northerly boundary line of Volusia County, Florida, with the West shoreline of the Atlantic Ocean; thence Southerly along the West shoreline of the Atlantic Ocean to the center line of Ponce de Leon Inlet; thence Westerly along the center line of said inlet to the center line of the Inter-coastal Waterway in the Halifax River; thence Northerly along the center line of the Inter-coastal Waterway to the center line of Spruce Creek; thence Westerly along the center line of Spruce Creek to the East line of Section 33 Township 16 South, Range 33 East; thence South along the East line of Section 33, Township 16 South, Range 33 East, to the Southeast corner of said Section 33, Township 16 South, Range 33 East; thence Westerly along the South line of Township 16 South, Range 33 East, to the

Southwest corner of Section 31, Township 16 South, Range 32 East; thence Northerly along the West line of Sections 31, 30, 19, 18, 7, and 6, to the Northwest corner of Section 6, Township 16 South, Range 32 East; thence Westerly along the South line of Township 15 South, Range 31 East to the Southwest corner of Section 31, Township 15 South, Range 31 East; thence North along the West line of Sections 31, 30, 19, 18, 7, and 6, Township 15 South, Range 31 East, to the Northwest corner of Section 6, Township 15 South, Range 31 East; thence East along the North line of Township 15 South, Range 31 East to the Southwest corner of Section 31, Township 14 South, Range 31 East; thence North along the West line of Sections 31 and 30, Township 14 South, Range 31 East, two miles to the Flagler County line; thence Easterly and Northerly with the Flagler County line to the West shoreline of the Atlantic Ocean, to the point and place of beginning.

**Section 1.13 – Listings of Suspended Participants:** When a participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant’s option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a participant has been suspended from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant’s listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant’s listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise his clients.

**Section 1.14 – Listings of Expelled Participants:** When a participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS shall, at the expelled participant’s option, be retained in the Service until sold, withdrawn or expired and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a participant has been expelled from the Association (except where MLS participation without Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the expelled participant’s listings in the MLS compilation of current listing information. Prior to any removal of an expelled participant’s listings from MLS, the expelled participant should be advised, in writing, of the intended removal so that the expelled participant may advise his clients.

**Section 1.15 – Listings of Resigned Participants:** When a participant resigns from the 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.

(a) If an MLS participant chooses to discontinue participation, but wants to continue in the reciprocal MLS, they must remove or withdraw all MLS listings first, then resubmit the listings through the reciprocal agreement.

**Transferring Listings** – When one or more individuals leave a company, if permission is given by the broker for those individuals to take their listings, all listings must be withdrawn and reentered with the new company and appropriate fees paid.

In the case of a merger or the purchase of all of a company’s assets and/or inventory, no fee will be charged for transfer of listings.

## Selling Procedures

**Section 2 – Showings and Negotiations:** Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker, except under the following circumstances:

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

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

**Section 2.2 – Submission of Written Offers and Counter-Offer:** The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that seller obtain the advice of legal counsel prior to acceptance of subsequent offer. (Adopted 11/87)

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)

**Section 2.3 – Right of Cooperating Broker in Presentation of Offer:** The cooperating broker (sub-agent 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 written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments of such presentations. (Amended 4/92)

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

**Section 2.5 – Reporting Sales to the Service:** Status changes, including final closing of Sales, shall be reported immediately to the multiple listing service by the listing broker within 48 hours after they have occurred. unless the If negotiations were carried on under Section 2(a) or (b) hereof, in which case the cooperating broker shall report the status changes, sending a copy to the listing broker within twenty-four (24) hours after acceptance occurrence and the listing broker shall report them to the MLS within 24 hours after receiving notice from the cooperating broker. (Amended 4/92, 5/07)

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

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

**Section 2.7 – Advertising of Listing Filed with the Service:** A listing shall not be advertised by any participant other than the listing broker without the prior consent of the listing broker.

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

### **Section 2.9 Disclosing the Existence of Offers**

Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. (Adopted 11/05)

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

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

## **Refusal To Sell**

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

## **Prohibitions**

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

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

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

**Section 4.3 – Solicitation of 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 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 the expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

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

This Section is also intended to encourage brokers to participate in the Service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts

to market the property. Absent the protection afforded by this Section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

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

**Section 4.4 - Use of the Terms MLS and Multiple Listing Service:** No MLS participant, subscriber or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. (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 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 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 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 the Association of REALTORS®, the participant of the Service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. (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 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 his producing 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 association 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.

\*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 his producing 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 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 or to lender 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 or by a lender. In such instances, the fact that the gross commission is subject to court or to lender 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 produce an offer that ultimately results in a successful transaction. (*Adopted 11/98*)

**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*)

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

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

**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)

## Service Charges

**Section 6 – Service Fees and Charges:** The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed.

- (a) **Initial participation Fee:** An applicant for participation in the Service shall pay an application fee of \$250 which shall accompany the application.

**Note:** The initial participation fee shall approximate the cost of bringing the Service to the participant.

- (b) **Recurring Participation and Access Fee:** The fees of each participant will be billed quarterly and shall be invoiced quarterly to each salesperson and licensed or certified appraiser who has access to and use of the Service, whether licensed as a broker, sales licensee, licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. Payment of such fees for the Multiple Listing Service are due when the statement is received and delinquent on the last day of the month with suspension of services on the following day. The annual MLS access fee is not refundable. The Participation fees shall be prorated on a monthly basis.

**Note:** The “MLS Participant” is the individual who is the Designated REALTOR® or Designated Broker of the firm. Only the Designated Broker is the “member” of the MLS or the “MLS Participant”. Only someone who is capable of offering and accepting compensation to and from other participants or is licensed to engage in the appraisal of real property can be the MLS participant.

**Note:** As a courtesy to the participant, participation and access fees are billed to the individual, however the participant is ultimately responsible as with all MLS charges.

**Note:** The participation fee is billed from the time the licensee becomes affiliated with the broker. The MLS participation fee is refundable for each full month unused portion.

**MLS Access:** MLS computer access requires completion of application and payment of a one-time service initiation fee of \$100. If membership has been terminated a new initiation fee will be charged.

There is no charge for broker input listings, however as a service, the Association will input listings at a charge of \$10 per listing, billed monthly to the broker.

**Charge Policies:** The Multiple Listing Service Committee, subject to approval by the Board of Directors, shall from time to time prescribe forms, extension fees, formulate procedures, and do such other things as are necessary to the proper promotion and conduct of the Service. A statement is sent at the beginning of each month and is payable when received and delinquent on the last day of the month with suspension of service on the following day. At that time a reinstatement fee of \$25 is charged. If any of the due dates fall on a weekend, payment is due on the Friday before the weekend. This will be automatic; no phone calls will be made by the staff. Nonpayment of account may cause expulsion by action of the Board of Directors.

**Delinquent Accounts:** Those members that are delinquent on their monthly payments will be required to bring the account up to date and furnish a backup payment method for future payments.

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

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

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

**Note 3:** Financing from the multiple listing service should be adequate but not in such amounts as to be the source of financing the association's operation. The multiple listing service should pay its own way and allow for a reasonable operating reserve, but it is merely another service of the association and not the principal activity or reason for the association's existence. As long as it is able to restrict its services exclusively or primarily to association members, the service is not properly an association profit center.

**Note 4:** Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, amend Section 6, recurring participation fee and subscription fees, as necessary to include such individuals in the computation of MLS fees and charges. *(Adopted 4/92)*

## Compliance with Rules

### Section 7, Compliance with Rules / Authority to Impose Discipline

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

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- f. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- g. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years *(Adopted 11/07)*

#### Section 7.1 Compliance with Rules

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

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

**Note:** 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)

**Note:** Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or subscribers affiliated with MLS members or participants. (Amended 11/07)

## **Meetings**

**Section 8 – Meetings of the MLS Committee:** The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

**Section 8.1 – Meetings of the MLS Participants:** The Committee may call meetings of the participants in the Service to be known as meetings of the Multiple Listing Service.

**Section 8.2 – Conduct of the Meetings:** The Chairperson or Vice Chairperson shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson, or upon his failure to do so, by the Committee.

## **Enforcement of Rules or Disputes**

**Section 9 – Consideration of Alleged Violations:** The Committee shall give consideration to all written complaints having to do with violations of the rules and regulations. (Amended 2/98)

**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 violation of one or more of the provisions of Section 16 of the rules and regulations or request for arbitration, it may be administratively considered and determined by the MLS Committee and if a violation is determined, the MLS Committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Association in accordance with the bylaws of the Association of REALTORS®. (Amended 2/98)

If, rather than conducting an administrative review, the MLS Committee has a procedure established to conduct hearings, the decision of the hearing tribunal may be appealed to the Board of Directors of the Association of REALTORS®. Alleged violations of Section 16 of the rules and regulations shall be referred to the Association's Grievance Committee for processing in accordance with the professional standards procedures of the Association, except that if the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Association. (Amended 2/98)

**Section 9.2 – Complaints of Unethical Conduct:** All other complaints of unethical conduct shall be referred by the Committee to the Executive Officer of the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association’s bylaws. *(Amended 11/88)*

## **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)*

**Section 10.1 – MLS Not Responsible for Accuracy of Information:** The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such participant provides.

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

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

**Section 11 –** By the act of submitting any property listing data to the Association MLS the participant represents that he has been authorized to grant and also thereby does grant authority for the Association to include the property listing data 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 related to the listed property. *(Amended 5/06)*

**Section 11.1 –** All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Daytona Beach Area Association of REALTORS®, Inc. and in the copyrights therein, shall at all times remain vested in the Daytona Beach Area Association of REALTORS®, Inc.

**Section 11.2 –** Each participant shall be entitled to lease from the Daytona Beach Area Association of REALTORS®, Inc. a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the Association.\*

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

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

## Use of Copyrighted MLS Compilation

**Section 12 – Distribution:** Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the Association of REALTORS®, and shall not distribute any such copies to persons other than subscribers who are affiliated with such participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by an Association Multiple Listing Service is strictly limited to the activities authorized under a participant’s licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey “Participation” or “Membership” or any right of access to information developed or published by an Association Multiple Listing Service where access to such information is prohibited by law. (Amended 4/92)

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

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

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

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that an Association or Association-owned Multiple Listing Service has deemed to be non-confidential and necessary to support the

estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

## Use of MLS Information

**Section 13 – Limitations on Use of MLS Information:** Information from the MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the Association or MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

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

**“Based on information from the Daytona Beach Area Association of REALTORS® Multiple Listing Service for a 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 a majority vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Association of REALTORS®.

## Arbitration of Disputes

**Section 15 – Arbitration of Disputes:** By becoming and remaining a participant, each participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS participants in different firms arising out of their relationships as MLS participants subject to the following qualifications.

- (a) If all disputants are members of the same Association of REALTORS® or have their principal place of business within the same Association’s territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS®.
- (b) If the disputants are members of different Boards/Associations of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different Boards/Associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the Florida Association of REALTORS®. (Amended 11/97)

**Interboard Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the *Code of Ethics and Arbitration Manual* of the National Association of REALTORS®. Nothing herein shall preclude participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS®.  
(Amended 11/98)

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

### **Section 16 – Standards of Conduct for MLS Participants:**

**Section 16.1** – MLS participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS participants have with clients. *(Amended 1/04)*

**Section 16.2** – Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

**Section 16.3** – MLS participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. *(Amended 1/04)*

**Section 16.4** – MLS participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS participant, refused to disclose the expiration date and nature of such listing (i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS participant may contact the owner to secure such information and may discuss the terms upon which the MLS participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of an existing exclusive listing.

**Section 16.5** – MLS participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

**Section 16.6** – MLS participants shall not use information obtained from listing brokers through offers to cooperate made through Multiple Listing Services or through other offers of cooperation to refer listings brokers' clients to other brokers or to create buyer/tenant relationships with listing broker's clients, unless such use is authorized by listing brokers. *(Amended 11/01)*

**Section 16.7** – The fact that an agreement has been entered into with an MLS participant shall not preclude or inhibit any other MLS participant from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)*

**Section 16.8** – The fact that a prospect has retained an MLS participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS participants from seeking such prospect's future business. *(Amended 1/04)*

**Section 16.9** – MLS participants are free to enter into contractual relationships or to negotiate with seller/landlords, buyer/s tenants or others who are not subject o an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. *(Amended 1/98)*

**Section 16.10** – When MLS participants are contacted by the client of another MLS participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)*

**Section 16.11** – In cooperative transaction, MLS participants shall compensate cooperating MLS participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS participants without the prior express knowledge and consent of the cooperating broker.

**Section 16.12** – MLS participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed “general” for purposes of this rule. *(Amended 1/04)*

**The following types of solicitation are prohibited:**

Telephone or personal solicitation of property owners who have been identified by a real estate sign, multiple listing compilations, or other information service as having exclusively listed their property with another MLS participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information intended to foster cooperation with other MLS participants. *(Amended 1/04)*

**Section 16.13** – MLS participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/04)*

**Section 16.14** – MLS participants, acting as buyers or tenants representatives or brokers, shall disclose that relationship to the seller/landlord’s representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord’s representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)*

**Section 16.15** – On unlisted property, MLS participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 1/04)*

MLS participants shall make any request for anticipated compensation from the seller/landlord at first contact.

**Section 16.16** – MLS participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)*

**Section 16.17** – MLS participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers’ exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other MLS participants to whom such offers to provide services may be made. *(Amended 1/04)*

**Section 16.18** – MLS participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker’s offer of compensation to subagents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker’s agreement to modify the offer of compensation. *(Amended 1/04)*

**Section 16.19** – All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client’s representative or broker, and not with the client, except with the consent of the client’s representative or broker or except where such dealings are initiated by the client. *(Amended 1/04)*

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/03, Amended 1/04)*

**Section 16.20** – participants, users, and subscribers, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude participants from establishing agreements with their associated licensees governing assignability of exclusive agreements.

**Section 16.21** – These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS participants involving commission, fees, compensation, or other forms of payment or expenses.

**Section 16.22** – MLS participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

**Section 16.23** - 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 and the licensee’s state(s) of licensure in a reasonable and readily apparent manner. *(Adopted 11/07)*

## **Section 16.24**

MLS participants shall present a true picture in their advertising and representations to the public, including 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, or to otherwise mislead consumers. *(Adopted 11/07)*

## **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)*

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

### **Section 18 IDX Defined**

IDX affords MLS participants the option of authorizing display of their active listings on other participants' Internet Web sites.

### **Section 18.1 Authorization**

Participants' consent for display of their active 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 or frame 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 as instructed by the seller.

### **Section 18.2 Participation**

Participation in IDX is available to all MLS participants engaged in real estate brokerage who consent to display of their listings by other participants. This requirement can be met by maintaining an office or Internet presence from which participants are available to represent real estate sellers or buyers (or both).

#### **Section 18.2.1**

Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

#### **Section 18.2.2**

Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.

#### **Section 18.2.3**

Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

#### **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, exclusive agency, or open listing), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each participant.

#### **Section 18.2.5**

Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

#### **Section 18.2.6**

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

**Section 18.2.7**

When displaying listing content, a participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

**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.

**Section 18.3.1.1**

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

**Section 18.3.2**

Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

**Section 18.3.3**

All listings displayed pursuant to IDX shall identify the listing firm in a readily visible color and typeface not smaller than the median used in the display of listing data.

**Section 18.3.4**

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

**Section 18.3.5**

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

**Section 18.3.6**

Deleted November, 2006.

**Section 18.3.7**

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

**Section 18.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites 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 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.

**Section 18.3.9**

The data consumers can retrieve or download in response to an inquiry shall be limited to 50 listings per search.

**Section 18.3.10**

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

**Section 18.3.11**

Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. 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.

**Section 18.3.12**

Display of expired, withdrawn, and pending listings is prohibited.

**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.

**Section 18.3.14**

Participants are required to employ appropriate security protection such as firewalls, provided that any security measures required may not be greater than those employed by the MLS.

**Section 18.3.15**

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

**Section 18.4 Service Fees and Charges**

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