

Rules and Regulations for Metro Commercial MLS

Membership in the Metro Commercial MLS: Any REALTOR® (principal) of this or any other Board is eligible to participate in the Metro Commercial MLS upon agreeing in writing to conform to these Metro Commercial MLS rules and regulations and to pay the Service fees and charges specified in Section 6 of these rules. However, no individual or firm, regardless of Board membership status, is eligible for Metro Commercial MLS membership or participant status 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 a 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 a Board Multiple Listing Service where access to such information is prohibited by law. Brokers and salespeople other than principals are not "members" or "participants" of the Metro Commercial MLS, but have access to and use of the Service through the Metro Commercial MLS Participant with whom they are affiliated.

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.

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.

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 agrees to complete a course of instruction covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he/she will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember 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 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 a 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 a Board Multiple Listing Service where access to such information is prohibited by law.

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Responsibility for Conformance with Rules and Regulations: The Metro Commercial MLS Participant is responsible to the Service for compliance with the rules and regulations by all of the firm's licensees (including licensed or certified appraisers) who have access to and use of the

Service.

Access to Current Listing Information: Only Participants and their affiliated licensees (including licensed or certified appraisers) may have access to and use of the current listing information generated by the Metro Commercial MLS.

Listing Procedures

Section 1—Listing Procedures: All exclusive listings for business or real estate are to be inputted into the Metro Commercial MLS on line computer system that the property or business located in the State of New Jersey, which is not classified by the local tax assessor as residential. All vacant land located in the State of New Jersey shall be inputted into Metro Commercial MLS on line computer system and zoning designation shall be indentified in the broker notes.

Note 1: The Metro Commercial MLS 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 shall be required as approved by the Metro Commercial MLS. However, the Metro Commercial MLS, 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 Metro Commercial MLS establishes, directly or indirectly, any contractual relationship between the Service and the client (buyer or seller, lessee or lessor)

The Service shall accept exclusive right to sell or lease 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 Metro Commercial MLS acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the Metro Commercial MLS.

The different types of listing agreements include:

- (a) exclusive right to sell or lease
- (b) exclusive agency
- (c) open
- (d) net

The Metro Commercial MLS shall not accept net listings because they are deemed unethical and, in New Jersey illegal. Open listings are not accepted 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.

The exclusive right to sell or lease listing is the conventional form of listing submitted to the Metro Commercial MLS in that the seller or lessor authorizes the listing broker to cooperate with and to compensate other brokers.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell or lease the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell or lease listings with named prospects exempted should be clearly stated in the Agency Notes.

Note 2: The Metro Commercial MLS 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 Metro Commercial MLS cannot accept open listings and net listings, and it may limit its service to listings of certain kinds of property. Members are free to accept listings to be handled outside the Service.

Section 1.1—Listings Subject to Rules and Regulations of the Service: Any listing taken on a Metro Commercial MLS form is subject to the rules and regulations of the Service upon signature of the seller(s) or lessor(s).

Section 1.2—Detail on Listings Filed with the Service: A listing agreement or property data form, when filed with the Metro Commercial MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

Section 1.2.1—Showing, Appointments and Offers: All Showing, Appointments and Offers are to be made thru the Listing Broker unless it indicates Cooperating Brokers are given instructions to the contrary by the Listing Broker in the Special Notes.

Section 1.3—Exempt Listings: If the seller or lessor refuses to permit the listing to be disseminated through 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 or lessor that he does not desire the listing to be disseminated by the Service. Those listings that the property or business owner does not permit cooperation with other brokers are required to be filed with the Metro Commercial MLS and attached to the listing will be a Waiver of Broker cooperation form

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

Section 1.5—Withdrawal of Listing Prior to Expiration: Listings of property may be withdrawn from the Metro Commercial MLS by the listing broker before the expiration date of the listing agreement. If requested by the Service, the Listing Broker will have to file with the Service a copy of the listing agreement and the authorization for the withdrawal.

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

Section 1.6—Contingencies Applicable to Listings: Any contingency or conditions of any term in a listing shall be specified and noted to Participants in the Agent Notes section in the MLS computer system.

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.

Section 1.8—Listing Multiple Unit Properties: All properties which are to be sold, leased or exchanged or which may be marketed separately, must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, leased, or exchanged, the rules related to notifying the Service shall be observed.

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

Section 1.10—Expiration of Listings: Listings filed with the 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.

Any extension must be executed by all appropriate parties prior to the expiration of the current listing.

Any renewal 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 within 24 hours of execution.

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 or lessor.

Section 1.12—Jurisdiction: Only listings of the designated types of property located within the jurisdiction of the MLS are required to be submitted to the Service. Listings of property located outside the MLS's jurisdiction will be accepted if submitted voluntarily by a Participant.

Section 1.13—Listings of Suspended Participants: When a Participant of the Service is suspended from the Metro Commercial MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board bylaws, Metro Commercial MLS bylaws, Metro

Commercial MLS rules and regulations, or other membership obligations including failure to pay appropriate dues, fees, or charges), all active and pending listings currently filed with the Service by the suspended Participant shall be retained in the Service until sold, leased, exchanged, withdrawn, or expired, and shall not be renewed or extended by the Service beyond the termination date of the listing agreement in effect when the suspension became effective.

Section 1.14—Listings of Expelled Participants: When a Participant of the Service is expelled from the Metro Commercial MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board bylaws, Metro Commercial MLS bylaws, Metro Commercial MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the Service shall, at the expelled Participant's option, be retained in the Service until sold, leased, exchanged, withdrawn, or expired, and 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 a Participant has been expelled from the Board or Metro Commercial MLS (or both) for failure to pay appropriate dues, fees, or charges, the Service is not obligated to provide Metro Commercial MLS services, including continued inclusion of the expelled Participant's listings in the Metro Commercial MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the Service, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his/her clients.

Section 1.15—Listings of Resigned Participants: When a Participant resigns from the Service, the Metro Commercial MLS shall not provide services, including continued inclusion of the resigned Participant's listings in the Metro Commercial MLS compilation of current listing information. Resigned Participant's are required to advise their clients that their listings have been removed from the are Metro Commercial MLS.

Section 1.16—Change of Status of Listings: Listings filed with the Service in which there is a change of status from active to pending or closed (rented) shall be reported within 24 hours.

Selling Procedures

Section 2—Showings and Negotiations: Appointments for showings and negotiations with the seller or lessor for the purchase, lease, or exchange of listed property filed with the Metro Commercial MLS shall be conducted through the listing broker, except under the following circumstances:

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

Section 2.1—Presentation of Offers: The listing broker, upon receipt of an offer from a cooperating broker, must make arrangements to present the offer as soon as possible, or give the

cooperating broker a satisfactory reason for not doing so.

Section 2.2—Submission of Written Offers and Counter-offers: The listing broker shall submit to the seller or lessor all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller or lessor and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller or lessor obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

Section 2.3—Right of Cooperating Broker in Presentation of Offer: The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He/she does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations

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

Section 2.5—Reporting Sales to the Service: Status changes, including final closing of sales, shall be reported to the multiple listing service by the listing broker within 24 hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 24 hours after receiving notice from the cooperating broker.

Note: The listing agreement of a property filed with the Service by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the Service; to provide timely notice of status changes of the listing to the Service; and to provide contract information including selling or rental price to the Service upon the sale, lease, or exchange of the property.

Section 2.6—Reporting Resolutions of Contingencies: The listing broker shall report to the Metro Commercial MLS within twenty-four (24) hours that a contingency on file with the 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 Pending Sale: The listing broker shall report immediately to the Service the cancellation of any pending sale, lease, or exchange and the listing shall be reinstated immediately.

Section 2.9—Disclosing the Existence of Offers: Listing brokers, in response to inquiries from buyers or cooperating brokers, shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

Section 2.10—Availability of Listed Property: Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

Refusal to Sell

Section 3—Refusal to Sell, Lease, or Exchange: If the seller or lessor of any listed property filed with the 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 with a notation in the Agent Notes feature.

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 Metro Commercial MLS without the prior consent of the listing broker.

Section 4.1—"For Sale" Signs: Only the "For Sale" sign of the listing broker may be placed on a property.

Section 4.2—"Sold" Signs:-as outlined in N.J.A.C 11:5-6 prior to closing Sold Signs are prohibited until a closing has occurred at which title to the property was transferred from the seller to the buyer.

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 and lessors 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 or lessor could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through Metro Commercial 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 or lessor 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 lessor or the availability of the property to other brokers.

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

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

Division of Commissions

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

In filing a property with the Metro Commercial MLS of a Board of REALTORS®, the Participant of the Service is making a blanket unilateral offers of compensation to the other

Participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other 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 find a purchaser or lessee.

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.

This shall not preclude the listing broker from offering any Participant compensation other than the compensation indicated on any listing published by the Metro Commercial 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.

Note 1: The listing broker may, from time to time, adjust the compensation offered to other Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised.

Note 2: The Metro Commercial MLS will not make any rule on the division of commissions between Participants and nonparticipants. This should remain solely the responsibility of the listing broker.

Note 3: 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.

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

Disclosing Potential Short Sales

Section 5.0.1 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.

Section 5.1—Participant as Principal: If a Participant or any licensee (including licensed or certified appraisers) affiliated with a Participant has any ownership interest in a property, the listing of which is to be disseminated through the Metro Commercial MLS, that person shall disclose that interest when the listing is filed with the Service and such information shall be disseminated to all Participants.

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

Section 5.3—Dual or Variable Rate Commission Arrangements: The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by noting the code “DV” in the Agent Notes. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

Service Charges

Section 6—Service Fees and Charges: The following service charges for operation of the Metro Commercial MLS 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 \$ 50.00 with such fee to accompany the application.

(b) **Recurring Participation Fee:** The recurring participation fee of each Participant shall be an amount equal to \$ 100 annually.

(c) **Recurring User Fee:** The User fee is for access to the Metro Commercial MLS computer system. A User has the option to pay an annual fee of \$450 or a semi annual fee of \$240 for 6 months of access, or a monthly access fee of \$60. There will be an initial access fee of \$10 and a reinstatement access fee of \$10.

Compliance with Rules

Section 7—Compliance with Rules—Authority to Impose Discipline: By becoming and remaining a participant, user or subscriber in this MLS, each participant, user 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, user 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

termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

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 60 days 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. All access fees will be paid in advance of access to the computer system.

(b) for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply

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

Meetings

Section 8—Meetings: The meetings of the Participants in the Service or the Board of Directors

of the Service for transaction of business of the Service shall be held in accordance with the provisions of Article 7, bylaws of the Service.

Enforcement of Rules or Disputes

Section 9—Consideration of Alleged Violations: The Metro Commercial MLS Board of Directors shall give consideration to all written complaints having to do with violations of the rules and regulations.

Section 9.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged violation of one or more of the provisions of Section 16 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the Board of Directors of the MLS and if a violation is determined, the Board of Directors may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Board in accordance with the bylaws of the Board of REALTORS®. Alleged violations of Section 16 of the rules and regulations shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board/Association.

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 Board of REALTORS® for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®.

Section 9.2—Complaints of Unethical Conduct: All other complaints of unethical conduct shall be referred by the Board of Directors of the Service to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's bylaws.

Confidentiality of Metro Commercial MLS Information

Section 10—Confidentiality of Metro Commercial MLS Information: Any information provided by the Service to the participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

Section 10.1—Metro Commercial 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 Metro Commercial MLS Compilation* and Copyright

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.

Section 11.1—All right, title, and interest in each copy of every Metro Commercial MLS compilation created and copyrighted by the Liberty Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the Liberty Board of REALTORS®.

Section 11.2—Each Participant shall be entitled to lease from the Liberty Board of REALTORS® a number of copies of each Metro Commercial MLS compilation sufficient to provide the Participant and licensees affiliated with the Participant (including licensed or certified appraisers) engaged in the commercial/industrial activity with one copy of such compilation. The Participant shall pay, for each such copy, the rental fee set by the Board

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

Use of Copyrighted Metro Commercial MLS Compilation

Section 12—Distribution: Participants shall, at all times, maintain control over and responsibility for each copy of any Metro Commercial MLS compilation leased to them by the Board 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 a 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 or published by a Board Multiple Listing Service where access to such information is prohibited by law.

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

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

Participants or their affiliated licensees may reproduce from the Metro Commercial MLS compilation and distribute to prospective purchasers or lessees a reasonable* number of single copies of property listing data contained in the Metro Commercial MLS compilation which relate to any properties in which prospective purchasers or lessees 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 or lessee 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 or lease with the Participant.

Any Metro Commercial 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 a Board or Board-owned Metro Commercial MLS has deemed to be nonconfidential 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 Metro Commercial MLS Information

Section 13—Limitations on Use of Metro Commercial MLS Information: Information from Metro Commercial 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 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 Board or its Metro Commercial MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

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 Metro Commercial MLS, subject to final approval by the Board of Directors of the Liberty Board of REALTORS® (shareholder).

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 Board of REALTORS® or have their principal place of business within the same Board'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 of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different Boards of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the New Jersey Association of REALTORS®.

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®.

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.

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.

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, refuses 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 any 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 listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers.

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.

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.

Section 16.9—MLS Participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.

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.

Section 16.11—In cooperative transactions, 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.

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, 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 MLS Participants.

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.

Section 16.14—MLS Participants, acting as buyer or tenant 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.

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.

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.

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.

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.

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.

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.

Section 16.20—Participants, users, and subscribers, prior to or after their relationship with their current firm is terminated, 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 assign ability 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.

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.

Section 16.25—The services which MLS participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

Orientation

Section 17—Orientation: Any applicant for MLS Participation and any licensee affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval.

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

Internet Data Exchange (IDX)

Section 18—IDX Defined: IDX affords MLS Participants the option of authorizing display of their listings on other Participants' Internet Websites.

Section 18.1—Authorization:

Participants' consent for display of their listings by other Participants pursuant to these rules and regulations must be established in writing. If a Participant withholds consent 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 in IDX is available to all MLS Participants who consent to display of their listings by other Participants.

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—MLS participants may not use IDX-provided listings for any purpose other than display on their websites. This does not require participants to prevent indexing of IDX listings by recognized search engines.

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 Websites 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.

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

Section 18.2.5—Participants must refresh all MLS downloads and refresh all MLS data at least once every three (3) 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 18.2.8— Any IDX site shall:

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

shall disable or discontinue either or both of those features as to 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 participants' websites. Except for the foregoing and subject to Section 18.2.9, a participant's IDX site may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX site from notifying its customers that a particular feature has been disabled at the request of the seller.

Section 18.2.9— Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the IDX site. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

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

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

Section 18.3.1—Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.

Section 18.3.1—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 18.3.2—All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.

Section 18.3.3—All listings displayed pursuant to IDX shall identify the listing agent.

Section 18.3.4—Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own Websites subject to their Participant's consent and control and the requirements of state law and/or regulation.

Section 18.3.5—All listings displayed pursuant to IDX shall show the MLS as the source of the information.

Section 18.3.6—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.

Section 18.3.7—The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than one hundred (100) listings or five percent (5%) of the listings available for IDX display, whichever is fewer.

Section 18.3.8—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 18.3.9—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 18.3.10—Display of expired, withdrawn, pending, and sold listings is prohibited.

Section 18.3.11—Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.

Section 18.3.12—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 18.3.13—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.

Virtual Office Websites (VOWs)

Section 19.1—VOW Defined

- a. A “Virtual Office Website” (VOW) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b. As used in Section 19 of these rules, the term “participant” includes a participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “participant’s consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a participant.
- c. “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.
- d. As used in Section 19 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

Section 19.2

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

Section 19.3

a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.

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

ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.

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

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

c. If the Metro Commercial 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 Metro Commercial MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

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

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

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

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

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

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

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

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

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

Section 19.5—A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

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

Section 19.6

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the

Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

- 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. Check one.

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

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

Initials of Seller

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

Section 19.7

- a. Subject to Subsection b., below, a participant's VOW may allow third-parties:
 - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
 - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the

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

Section 19.8—A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

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

Section 19.10—Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS® VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

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

Section 19.12—A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

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

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

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

Section 19.15—A participant’s VOW may not make available for search by or display to Registrants any of the following information:

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

Note: If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15f. must be omitted.

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 5% of the current listings in the MLS and 5% of the sold listings in the MLS in response to any inquiry.