

# **SUPERIOR AREA ASSOCIATION OF REALTORS®, INC.**

## **MULTIPLE LISTING SERVICES RULES AND REGULATIONS**

### **DEFINITIONS**

#### Multiple Listing Service

A Multiple Listing Service is a means by which authorized Participants in the service make blanket unilateral offers of compensation to other Participants (acting either as subagents, buyer agents, or in other agency or nonagency capacities as defined by law); by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals and other valuations of real property; 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 among Participants so they may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).

As used in these Rules and Regulations, the following terms shall have the meanings given to them in this Section:

"Service" shall mean the Multiple Listing Service of the Superior Area Association of REALTORS® (as defined by the National Association of REALTORS®) from which a Participant receives its participatory rights.

"MLS Compilation" shall mean 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.

"Participant" shall have the meaning set forth in Section 2.1.

"Jurisdiction" shall mean the following counties in Wisconsin: Ashland County, Bayfield County, Burnett County, Douglas County, Sawyer County, Washburn County.

"Internet Data Exchange" is a means by which each Participant subscribing to the program permits the display of its active listings appearing in MLS on each other IDX's Internet web site.

"Internet Data Exchange Database" is the current aggregate compilation of all active exclusive right to sell listings of all Internet Data Exchange Subscribers except those listings where the property seller has opted out of Internet publication.

For the purpose of these rules the phrase "Business Day" shall be a day when the office of the service is open for business.

### **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 the Multiple Listing Service, and are taken by Participants on Exclusive Right to Sell and Exclusive Agency Listings shall be delivered to the Multiple Listing Service within three (3) business days after all necessary signatures of seller(s) have been obtained.

- (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.

The listing agreement must include the seller's written authorization to submit the agreement to the Multiple Listing Service.

The different types of listing agreements include:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (d) 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.

The exclusive right to sell listing is the conventional form of listing submitted to the Multiple Listing Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

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

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

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

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:

- |                          |                         |                      |
|--------------------------|-------------------------|----------------------|
| 1. residential           | 5. business opportunity | 8. mobile home parks |
| 2. residential income    | 6. motel-hotel          | 9. commercial income |
| 3. subdivided vacant lot | 7. mobile homes         | 10. industrial       |
| 4. land and ranch        |                         |                      |

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;  
or
- (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;  
or
- (e) participate on the seller(s) behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol ("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.

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 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. Such authorization shall be retained by the Broker and filed with the Service upon request. Any change in the status of the listing (pending, sold, etc.) shall be made within three (3) business days of the change in the status.

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.

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

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

Section 1.7—Listing Price Specified: The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings.

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 nonparticipants.

Section 1.10—Expiration of Listings: Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the compilation of 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.

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

Section 1.12—Jurisdiction: Only listings of the designated types of property located within the jurisdiction of the MLS are required to be submitted to the Service. Listings of property located outside the MLS's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service. The jurisdiction of the MLS shall be the following counties in Minnesota: Ashland County, Bayfield County, Burnett County, Douglas County, Sawyer County, Washburn County.

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, a 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, a Association MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients.

Section 1.15—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.

## **Selling Procedures**

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

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

Section 2.1—Presentation of Offers: The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

Section 2.2—The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain

legal advice where there is a question about whether a pre-existing contract has been terminated.

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

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

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

**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.

**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 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.

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

### **Refusal to Sell**

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

### **Prohibitions**

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

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

Section 4.2—"Sold" Signs: Prior to closing, only the "Sold" sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

Section 4.3—Solicitation of Listing Filed with the Service: Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent Minnesota Law and Article 16 of the REALTORS®' Code of Ethics, its Standards of Practice, and its Case Interpretations.

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

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

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

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

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

### **Division of Commissions**

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

In filing a property with the Multiple Listing Service of a 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.\*

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\* *The compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by a 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:*

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 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. Superseding offers of compensation must be renewed by May 1 of each year.

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.

**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.

**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.

**Note 2:** The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised.

**Note 3:** The 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

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*1. by showing a percentage of the gross selling price*

*2. by showing a definite dollar amount*

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.

**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.

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

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

### **Service Charges**

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

- (a) Initial Participation Fee: An applicant for participation in the Service shall pay an application fee of \$400.00 with such fee to accompany the application.
- (b) In addition, each Member shall pay a monthly service fee or dues equal to an amount set from time to time by the Board of Directors multiplied by the number of licensed sales personnel and licensed or certified appraisers employed by, or affiliated with, the Full Membership Broker. The computation of the service fee or dues in respect to such licensed sales personnel and licensed or certified appraisers

shall exclude any such personnel for whom the Member has obtained a subscription waiver from the Committee. Such Waiver shall be issued by the Committee upon written application of the Member showing that the named licensee is operating outside the Association's jurisdiction and is not utilizing the Service, for medical reasons is unable to utilize the service, or a licensed or certified appraiser that does not utilize the service.

(c) Members who hold primary full MLS participation with another Multiple Listing Service and are outside the Association's jurisdiction may choose one of the following types of membership:

- (1) **MLS Only Membership:** The monthly service fee shall be in an amount equal to an amount set from time to time by the Committee multiplied by the number of licensed sales personnel and licensed or certified appraisers employed by or affiliated with the Full Membership Broker. The computation of the service fee or dues for such members shall exclude any such personnel that are not utilizing the service. The broker shall designate those licensees utilizing the service.
- (2) **Allied Participation:** The monthly service fee shall be a flat monthly amount, as set from time to time by the Board of Directors.

**Section 3. Full Membership Broker Transfers.** Full Membership Broker changes may be made upon filing the pertinent information as to the requested change and payment of a transfer fee of 50% of the current initiation fee. This shall not be construed to imply general open marketability of Full Broker Memberships. The intent is that any transfer to a Broker's Membership shall be between parties with a pre-existing business relationship with the firm.

**Section 6.1.** All MLS charges for each month shall be due and payable the last day of the month for service the following month. Any MLS charges not paid as of the first (1<sup>st</sup>) day of said month shall be considered delinquent, and no publication of the service or computerized MLS information services shall be available to the Member during the period of delinquency. Prior to reinstatement, the delinquent member shall pay all outstanding charges plus a reinstatement fee of ten percent (10%) of the outstanding charges or \$25.00, whichever is greater.

**Section 6.2.** If fees, fines or assessments owed to the Service are not paid within one (1) month after the due date and the nonpaying Member is a Member of the Superior Area Association of REALTORS®, membership in the Association shall automatically terminate. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the amount owed has been confirmed by the Superior Area Association of REALTORS® Board Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines or other assessments duly levied in accordance with the provisions of these Rules and Regulations may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all amounts due as of the date of termination.

**Section 6.3.** In addition to the foregoing provisions for dues, the Committee may from time to time levy an assessment for the purpose of the Multiple Listing Service, to be paid uniformly by each Member at the time and in the manner established by resolution of the Committee. Such assessments shall not at any time require of any Member a payment or

payments totaling more than \$50.00 in any calendar year and no assessments shall be payable over more than five years. The failure of a Member to pay such assessment when due shall subject the Member to sanctions as provided in Section 2 of this Article.

## **Compliance with Rules**

### **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 within one (1) month after the due date and the nonpaying Member is a Member of the Superior Area Association of REALTORS®, membership in the Association shall automatically terminate. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the amount owed has been confirmed by the Superior Area Association of REALTORS® Board Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines or other assessments duly levied in accordance with the provisions of these Rules and Regulations may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all amounts due as of the date of termination.
- b) for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply

Section 7.2 Applicability of Rules to Users and/or Subscribers: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the participant to the same or other discipline. This provision does not eliminate the participant's ultimate responsibility and accountability for all users or subscribers affiliated with the participant. (Adopted 4/92)

## **Meetings**

Section 8—Meetings of MLS Committee: The MLS 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 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.

Section 8.3 - Appeal from Decision of the Committee. A Member of the Service may appeal in writing to the Directors and the Association any action taken by the Committee and said Board of Directors shall review and make final decision pertaining thereto. Any action taken by the Committee under the foregoing powers and duties is subject to review and a final decision by the Directors of the Association on its own motion at its next meeting.

### **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.

Section 9.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the MLS Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the bylaws and rules and regulations of the Association of REALTORS® within twenty (20) days following receipt of the Committee's decision.

Section 9.2—Complaints of Unethical Conduct: All other complaints of unethical conduct shall be referred by the Committee to the Chief Executive Officer of the Superior Area Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's bylaws.

### **Confidentiality of MLS Information**

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

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

Section 10.2—Access to Comparable and Statistical Information: Association members who are actively engaged in real estate brokerage, management, mortgage, 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 provided in these rules and regulations.

### **Ownership of MLS Compilation<sup>†</sup> and Copyright**

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.

Section 11.1—All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Superior Area Association of REALTORS<sup>®</sup> and in the copyrights therein, shall at all times remain vested in the Superior Area Association of REALTORS<sup>®</sup>.

Section 11.2—Each Participant shall be entitled to lease from the Superior Area Association of REALTORS<sup>®</sup> a number of copies of each MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay for each such copy the rental fee set by the Association.\*\*

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

### **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 Superior Area Association of REALTORS<sup>®</sup>, 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

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<sup>†</sup> 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 whatever.

\*\* 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.

information developed or published by an Association Multiple Listing Service where access to such information is prohibited by law.

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

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

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular

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\*\*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.

property for a particular client. However, only such information that an association or association-owned multiple listing service 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 MLS Information**

Section 13—Limitations on Use of MLS Information: Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the 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 Superior Area Association of REALTORS for the period (date) through (date).

### **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 MLS Committee, subject to approval by the Board of Directors of the Superior Area Association of REALTORS®.

### **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 who are REALTORS® who are engaged in real estate brokerage and 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 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 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 18.3.2-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-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 18.3.5-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 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 18.3.7-The data consumers can retrieve or download in response to an inquiry shall be limited to 100 listings per search.

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, and pending listings is prohibited.

Section 18.3.11-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 18.3.12-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.

## **MLS FINES**

### No photos

Photos will be required for all property types, except for land and business only – no real estate listings. The main photo must be of the exterior of the building.

Photos must be in the MLS system within 24 hours of the input date. If photos are missing after that time, a fine of \$10 for each day the photo is missing will be assessed.

### No photo in the Quarterly and Year End Sold Compilation

No photo in the Quarterly Sold CD - \$50.

No photo in the Year End Sold CD - \$100

### Late listings

Brokers input listings into the MLS system within 3 business days of the list date. A fine of \$25/day for each day the listing is late will be assessed. If the listing is received in the mail from an out of town seller or there are other reasons the listing was received late from the seller(s), the date received shall be the date received in the mail, as evidenced by the postmark on the envelope.

### Missing or Incorrect Information in Required fields

Offices will have 3 days to correct the information. If the information is not corrected within that time frame a fine of \$25 will be assessed. A fine of \$10/day will continue to accrue for each day the information is not corrected.

### Seller's Name

The seller's name is required in the MLS, unless the seller signs a statement to the contrary. If the seller's name is not provided and the statement is not provided to the MLS, a fine of \$25.00/week will be levied.

### Status changes

Status changes must be done within 3 business days. A fine of \$25 will be assessed for not making the change within that time frame. A fine of \$10/day will continue to accrue for each day the status change is not completed.

### Hold No Showings

A fine of \$500 will be levied for the listing agent/office allowing a showing on a Hold-No Showing listing. These listings will not appear as active until the status is changed to active. While the MLS office changes the listing to the Hold-No Show status, it is the listing agent's responsibility to change the status to active. A fine of \$50 will be levied for having an active listing in the MLS with a notation in the remarks or addendum that states that no showings will be allowed until a certain date.

### Personal promotion in remarks

A fine of \$100/occurrence will be instituted for placing personal promotions in the remarks or addendum. The agent will receive a warning letter.

Signs in MLS Photos No photos will be allowed in the MLS system where the company name, agent, logo or franchise name is readily apparent. This will be considered personal promotion and will fall under the above fine.

### Providing Nonmember Access to the MLS

A fine of \$2000 will be levied for providing the MLS access codes to a nonmember, excluding member office staff.

### Extending listing

A listing agent must have a signed extension form in hand, signed by the seller, prior to extending any listing. If the listing is extended without such a form, a fine of \$100.00 will be imposed.

### Duplicate Listing

Participants are allowed to duplicate listings in regard to class or type. Once the property sells or expires, the duplicate listing will be deleted by MLS staff. It is the responsibility of the Listing Broker to inform the MLS of the status change. There is a fine of \$100 for marking the duplicate listing as sold.

### Interior Filming of a Listed Property by Buyer or Buyer Agent

Allowing filming of the interior of a listed property without the listing broker's permission (as evidence by the field in the MLS system): \$500

### Filing of OEX Properties

A listing that is to be withheld from the MLS (OEX) must be filed with the MLS office within 7 days of the list date. If the documentation is filed late, the fine will be \$10/day for each day the listing is filed late.

A fee of \$2.50 will be charged to the Office for any changes that MLS staff makes to the system on their behalf, excluding Hold-No Show, Cancelled or Withdrawn status changes.

Once fines are assessed, they must be paid unless appealed, in writing, to the MLS Committee. The Committee will meet once per month to review any complaints. Any decision by the MLS Committee may be appealed to the Board of Directors.