

MLS Changes due to NAR Settlement

- **Compensation offers moved off MLS:** NAR has agreed to put in place a new rule prohibiting offers of compensation on an MLS. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs). This change will go into effect August 17, 2024.
- **Written agreements for MLS Participants acting for buyers:** While NAR has been advocating for the use of written agreements for years, in this settlement we have agreed to require MLS Participants working with buyers to enter into written agreements with their buyers before touring a home. This change will go into effect August 17, 2024.

What MLS policies have changed?

The policy changes, agreed to by NAR leadership, were reviewed and updated with the changes as outlined below:

- **Eliminate and prohibit any requirement of offers of compensation on an MLS between listing brokers or sellers to buyer brokers or other buyer representatives.**
- **Retain, and define, "cooperation" for MLS Participation.**
- **Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation on an MLS to buyer brokers or other buyer representatives.**
- **Require an MLS to eliminate all broker compensation fields and compensation information on an MLS.**

- **Require an MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.**
- **Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with an MLS terminating the Participant's access to any MLS data and data feeds.**
- **Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.**
- **Require compensation disclosures to sellers, and prospective sellers and buyers.**
- **Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.**

Are all other MLS policies that were not amended still in effect?

Yes, all MLS policies will continue to be in effect and subject to enforcement by their local MLSs.

WUAR MLS will remove compensation field on August 14.

5. COMPENSATION OF BROKER: Brokers fees will be deemed earned when Buyer is under contract to purchase any property presented by Broker or negotiated by Buyer. This fee will be due and payable at closing or upon Buyer's default. If Buyer defaults, the total compensation that would have been due Broker will be due and payable immediately in cash from the Buyer. BUYER AGREES TO PAY BROKER UNDER THIS CONTRACT UNLESS IT IS NEGOTIATED THAT COMPENSATION WILL BE PAID BY SELLER OR SELLER'S BROKER. ALL FEES OR COMMISSIONS ARE NOT SET BY LAW AND ARE FULLY NEGOTIABLE BETWEEN BUYER AND BROKER. THE TOTAL AMOUNT OF COMPENSATION RECEIVED BY THE BROKER FROM ALL SOURCES IN ANY TRANSACTION SUBJECT TO THIS AGREEMENT MAY NOT EXCEED THE AMOUNT SET OUT IN THIS SECTION 5

In consideration of the services performed by Broker under the terms of this Contract, Buyer agrees to pay Broker the following fee(s):

a. Brokerage Fee: Buyer will pay Broker the following

(initial only one from Compensation Amount and One from Method of Payment for Compensation).

If Broker is offered a bonus in addition to the agreed upon amount below the Broker will provide the Buyer written notice of the bonus via an addendum to this agreement. The Broker may only accept the bonus if the Buyer agrees to sign the addendum:

COMPENSATION AMOUNT (initial only one):

_____ (initials) **A) A Brokerage Fee of \$_____ will be paid at Closing.**

_____ (initials) **B) A Brokerage Fee of _____% of the purchase price or total lease price(renewable, if applicable) of any property purchased or leased by Buyer, including "For Sale by Owner" properties.**

_____ (initials) **C) A Brokerage Fee of _____% of another amount and calculated by: _____**

METHOD OF PAYMENT FOR COMPENSATION (initial only one):

_____ (initials) **A) Brokerage Fee will come solely from the Buyer.**

_____ (initials) **B) Brokerage Fee will come from Buyer, less the amount Broker receives from Seller or Listing Broker**

_____ (initials) **C) Seller or Listing Broker pays Brokerage Fee and Buyer has No Obligation to Pay**

b. Other: Buyer will pay Broker the following (initial any/all that apply) The following items are nonrefundable and due directly to the brokerage firm:

_____ (initials) **Retainer Fee: of \$ _____ due and payable upon the signing of this contract. This fee shall or shall not be credited against the Brokerage fee.**

_____ (initials) **Administrative Fee: Buyer shall pay Broker an Administrative Fee of \$ _____ to be paid no later than _____ calendar days of the signing of this contract regardless of whether or not Buyer purchases any property or at closing. (Check applicable subsection.)**

This Administrative Fee shall be the only fee due Broker from Buyer under the terms of this Contract.

This Administrative Fee shall be credited against the Brokerage Fee described above and shall be kept by Broker whether or not a Brokerage Fee is earned.

This Administrative Fee shall be credited against the Brokerage Fee described above and shall be kept by Broker whether or not a Brokerage Fee is earned, unless Buyer enters into a purchase and sale agreement. In the event that Buyer enters into a purchase and sale agreement, Buyer and Broker agree that the above Administrative Fee will be credited against the Brokerage Fee in subsection (a) above.

This Administrative Fee will be kept by the Broker and will not be credited against any Brokerage Fee described above.

3. COMPENSATION TO OTHER BROKERAGES OR REPRESENTATIVES:

Owner acknowledges Broker has advised Owner that there is no rule requiring Owner to offer to compensate buyer's Brokerages or a buyer's representatives. Broker has also advised Owner that all commissions are not set by law and are fully negotiable between Owner, Buyer, Buyer's Broker or representative, and Broker. Owner may authorize listing Broker to offer to compensate other Brokerages. **(OWNER TO INITIAL SELECTION BELOW)**

_____ Owner authorizes listing Broker to offer to compensate other Brokerages in the following amounts of U.S. dollars, percentage of gross sales price, or percentage of an amount other than the gross sales price:

Buyer Agency (up to) _____% of the gross sales price and/or \$ _____ : and/or _____% of an amount calculated by _____; Transaction Brokerage (Non Agency) (up to) _____ % of the gross sales price and/or \$ _____ : and/or _____% of an amount calculated by _____.

_____ Owner DOES NOT authorize listing Broker to offer to compensate other Brokerages.

4. CONCESSIONS: Owner does does not allow Broker to advertise the Owner's willingness to negotiate for seller concessions.

5. EARNEST MONEY: Owner authorizes and designates Escrow Agent, as designated by the sales agreement, to accept and hold on behalf of Owner any earnest money or escrow deposit made in accordance with the terms of any agreement to buy and sell real estate for the property. In the event of default or forfeiture by a prospective buyer, Owner will reimburse Escrow Agent any costs incurred by Escrow Agent including attorney's fees as a result of the release of payment to Owner of any of the earnest money deposited, and such reimbursement may be made by Broker from the earnest money deposit. All earnest money will be deposited in Escrow Agent's escrow account.

OWNER UNDERSTANDS THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, BROKER WILL NOT DISBURSE EARNEST MONEY TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

6. SIGNS: Owner grants to Broker the exclusive right to display "For Sale," "Under Contract," "Sale Pending," (or other similar) signs on the property and to remove other such signs.

7. BROKER'S DUTY: Broker agrees to employ the best efforts of Broker and Broker's agents and staff to secure a contract of sale for the described property upon such terms as may be agreeable to Owner. Broker's efforts shall include directing the efforts of Broker's organization to bring about the sale, advertising the described property as Broker deems advisable in those advertising media of merit customarily used in the area, furnishing such additional information as is necessary to cooperating real estate brokers and assisting such brokers in effecting a sale of property, and keeping Owner informed as to the progress of Broker's efforts in finding a Buyer for the described property. Owner understands the Broker makes no representation or guarantee as to the sale of the property. Upon the termination or completion of this Agreement, Broker shall keep confidential all information received during the course of this Agreement which was made confidential by written request or instructions from the client, except as provided for under South Carolina law.

8. BROKER LIABILITY LIMITATION: *Owner agrees Broker provided Owner with benefits, services, assistance, and value in bringing about this Contract. In consideration and recognition of the risks, rewards, compensation and benefits arising from this transaction to Broker, Owner agrees that he shall pay Broker's attorney fees and that Broker, shall not be liable to Owner, in an amount exceeding that Broker's Compensation by reason of any act or omission, including negligence, misrepresentation, errors and omission, or breach of undertaking, except for intentional or willful acts. This limitation shall apply regardless of the cause of action or legal theory asserted against Broker, unless the claim is for an intentional or willful act. This limitation of liability shall apply to all claims, losses, costs, damages or claimed expenses of any nature from any cause(s), except intentional or willful acts, so that the total liability of Broker shall not exceed the amount set forth herein. Owner will indemnify and hold harmless and pay attorneys fees for Broker from breach of contract, any negligent or intentional acts or omissions by any Parties, Inspectors, Professionals, Service Providers, Contractors, etc. including any introduced or recommended by Broker. Owner agrees that there is valid and sufficient consideration for this limitation of liability and that Broker is the intended third-party beneficiary of this provision.*

9. OWNER'S DUTY: Owner agrees as follows:
A. To furnish Broker with complete and reliable information concerning ownership and the operation of the property, and any encumbrances or liens affecting the property; and
B. To inform Broker of any inquiries (including inquiries from other brokers) or negotiations concerning the sale of the property; and
C. To permit inspection and showing of the property by Broker, Broker's Agents, Sub agents, Buyer's Agent, and by such agents, sub agents and prospective buyers as deemed reasonably necessary by Broker, and to cooperate in the scheduling and carrying out of such showings and inspections as is necessary; and

[_____] OWNER [_____] OWNER [_____] OWNER [_____] OWNER, AND [_____] BROKER HAVE READ THIS PAGE

a. Brokerage Fee:

Buyer will pay Broker the following (**initial only one from Compensation Amount and One from Method of Payment for Compensation**). If Broker is offered a bonus in addition to the agreed upon amount below the Broker will provide the Buyer written notice of the bonus via an addendum to this agreement. The Broker may only accept the bonus if the Buyer agrees to sign the addendum:

COMPENSATION AMOUNT (initial only one):

_____ (initials) **A**) A Brokerage Fee of \$ _____ will be paid at Closing.

_____ (initials) **B**) A Brokerage Fee of _____% of the purchase price or total lease price(renewable, if applicable) of any property purchased or leased by Buyer, including "For Sale by Owner" properties.

_____ (initials) **C**) A Brokerage Fee of _____% of another amount and calculated by: _____

METHOD OF PAYMENT FOR COMPENSATION (initial only one):

_____ (initials) **A**) Brokerage Fee will come solely from the Buyer.

_____ (initials) **B**) Brokerage Fee will come from Buyer, less the amount Broker receives from Seller or Listing Broker

_____ (initials) **C**) Seller or Listing Broker pays Brokerage Fee and Buyer has No Obligation to Pay

b. Other: Buyer will pay Broker the following (initial any/all that apply) The following items are nonrefundable and due directly to the brokerage firm:

_____ (initials) **Retainer Fee:** of \$ _____ due and payable upon the signing of this contract.
This fee shall or shall not be credited against the Brokerage fee.

_____ (initials) **Administrative Fee:** Buyer shall pay Broker an Administrative Fee of \$ _____ to be paid no later than _____ calendar days of the signing of this contract regardless of whether or not Buyer purchases any property or at closing.

(Check applicable sub-section.)

This Administrative Fee shall be the only fee due Broker from Buyer under the terms of this Contract.

This Administrative Fee shall be credited against the Brokerage Fee described above and shall be kept by Broker whether or not a Brokerage Fee is earned.

This Administrative Fee shall be credited against the Brokerage Fee described above and shall be kept by Broker whether or not a Brokerage Fee is earned, unless Buyer enters into a purchase and sale agreement. In the event that Buyer enters into a purchase and sale agreement, Buyer and Broker agree that the above Administrative Fee will be credited against the Brokerage Fee in subsection (a) above.

This Administrative Fee will be kept by the Broker and will not be credited against any Brokerage Fee described above.

6. TERM OF AGENCY: Broker's authority to act as Buyer's exclusive agent under the terms of this Contract shall begin on _____, _____, and shall end at 11:59 p.m. on _____, _____.

7. CONSENT TO DISCLOSED DUAL AGENCY/DESIGNATED AGENCY: (INITIAL APPLICABLE CHOICES)

_____ Buyer acknowledges receiving an explanation of the types of agency relationships that are offered by brokerage and a South Carolina Disclosure of Real Estate Brokerage Relationships form at the first practical opportunity at which substantive contact occurred between the Broker and Buyer.

Buyer acknowledges that after entering into this written agency contract, agent might request a modification in order to act as a **dual agent** or a **designated agent** in a specific transaction. If asked:

_____ Permission to act as a dual agent will not be considered.

_____ Permission to act as a dual agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Dual Agency Agreement**.

_____ Permission to act as a designated agent will not be considered.

_____ Permission to act as a designated agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Designated Agency Agreement**.

[_____] BUYER [_____] BUYER [_____] BUYER [_____] BUYER AND [_____] BROKER HAVE READ THIS PAGE



COMPENSATION AGREEMENT

1. **PARTIES AGREE:** In this legally binding Compensation Agreement, the

- LISTING BROKERAGE: _____, or
- SELLER: _____, or
- BUYER: _____

AGREES TO COMPENSATE THE BROKERAGE COMPANY _____ for the purpose, property, terms, and compensation stated below.

2. **FOR PURPOSE/ACTIVITY:** BUYING ON BEHALF OF _____ (CLIENT/CUSTOMER NAME)

- LISTING
- LEASING/RENTING
- OTHER _____

3. **REGARDING PROPERTY:** _____

Address _____ Unit # _____
 City _____ State of South Carolina _____
 Zip _____ County of _____ Lot _____
 Block _____ Section/Phase _____ Subdivision _____
 Tax Map _____ Other _____

4. **TERMS:** This Compensation Agreement begins on _____ and ends at 11:59 p.m. local time on _____ and does not create any agency relationships and expires 5 years after Effective Date if no termination date stated herein.

5. **COMPENSATION:** Shall be paid in U.S. Dollars according to the following terms: A compensation amount of _____% of the gross sales price or \$ _____ or _____% of the lease/rent payments total monthly other regarding the Property and will be due and payable at:

- The Closing of the Property
- Assumption of the lease
- As otherwise agreed: _____

PAYMENT WOULD BE DUE IN THE EVENT OF DEFAULT BY THE COMPENSATING PARTY. COMPENSATION FOR THE PURPOSES/ACTIVITIES DESCRIBED ABOVE IS NOT SET BY LAW AND IS FULLY NEGOTIABLE BETWEEN THE PARTIES.

6. **DISCLOSURE:** The parties agree that compensation being paid under this Agreement will be disclosed to all parties to the transaction that generate the compensation payment.

PARTIES ARE SOLELY RESPONSIBLE FOR OBTAINING LEGAL ADVICE PRIOR TO SIGNING THIS AGREEMENT Parties acknowledge receiving, reading, reviewing, and understanding this Agreement. Parties acknowledge having time and opportunity to review all documents and receive legal counsel from an attorney of their choice prior to signing. Effective date is the above stated date or latest date upon which all parties are aware of signatures and agreement.

Date: _____ Time: _____

Date: _____ Time: _____

Date: _____ Time: _____

Date: _____ Time: _____

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5. **EARNEST MONEY:** Total \$ _____ (USD) Earnest Money is paid as follows:
 \$ _____ accompanies this offer and \$ _____ will be paid by 6 P.M.
 on _____ (date) and Earnest Money is in the form of check cash
 other (e.g. wire) _____ to be a Credit to Buyer at Closing or disbursed only as
 Parties agree in writing or by court order or by Contract or as required for Closing by Closing Attorney. Buyer and seller authorize
 _____ as Escrow Agent to deposit and hold and
 disburse earnest money according to the terms of any separate escrow agreement, the law, and any regulations. Broker does not
 guarantee payment of a check or checks accepted as earnest money. Parties direct escrow agent to communicate reasonable
 information confirming receipt and status of earnest money upon a Broker request. If Earnest Money is not delivered by the agreed
 upon date above Seller may terminate the contract by delivering Notice of Termination to the Buyer.

THE PARTIES UNDERSTAND AND AGREE THAT UNDER ALL CIRCUMSTANCES INCLUDING DEFAULT, ESCROW AGENT WILL NOT DISBURSE EARNEST MONEY DEPOSIT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT (e.g. SCR518, SCR517, MEDIATION AGREEMENT) OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT. EARNEST MONEY WILL NOT BE DISBURSED UNTIL DETERMINED TO BE GOOD FUNDS. IF LEGAL ACTIONS OCCUR RELATED TO EARNEST MONEY, PARTY RECEIVING THE LEAST AMOUNT OF EARNEST MONEY IN THE COURT'S DISBURSEMENT ORDER AGREES TO INDEMNIFY ESCROW AGENT'S FEES, COURT COSTS AND ATTORNEY FEES. IF INTERPLEADER IS TO BE UTILIZED, PARTIES AGREE THAT \$ _____ SHALL BE PAID TO THE ESCROW AGENT BY THE PARTIES AS COMPENSATION BEFORE ESCROW AGENT INITIATES COURT OF COMPETENT JURISDICTION PROCEEDINGS ON EARNEST MONEY.

6. **TRANSACTION COSTS:**
A. TRANSACTION COSTS

Unless otherwise agreed upon in writing, Buyer will pay Buyer's transaction costs and Seller pay Seller's transaction costs.

- 1) Buyer's transaction costs include all costs and closing costs resulting from selected financing, pre-paid recurring items, insurance (including but not limited to mortgage insurance, title insurance lender/owner, flood, insurance, and hazard insurance) discount points, interest, non-recurring closing costs, title exam, FHA/VA allowable costs, fees and expenses of Buyer's attorney, contractually required real estate broker compensation, and the cost of any inspector, appraiser, or surveyor.
- 2) Seller's transaction costs include deed preparation, deed recording costs, deed stamps/tax/recording costs calculated based on the value of the Property, all costs necessary to deliver marketable title and payoffs, satisfactions of mortgages/liens and recording, property taxes prorated at Closing, contractually required real estate broker compensation, and fees and expenses of Seller's attorney.
- 3) The following costs in addition to the costs above will be the considered Seller's or Buyer's transaction costs. If no box is checked these costs will be added to Seller's transaction costs.
 - a) All costs to obtain information from or pertaining to owners' association (e.g. printing or document fees charged to requesting party by the HOA)
 - b) Private and/or Public Transfer Fees
 - c) Any costs similar to transfer fees (e.g. certificate of assessment, capital contributions, working capital, estoppel fees or otherwise named but similar fees)
- 4) At Closing, Seller will pay Buyer's transaction costs not to exceed \$ _____, which includes non-allowable costs first and then allowable costs (FHA/VA).

_____(Buyer Initials) _____(Seller Initials) Seller agrees to allow up to \$ _____ of transaction costs referenced above to go towards Buyer Broker Compensation. This concession cannot go solely to pay brokerage compensation if the concession was advertised on the Multiple Listing Service.

_____(Buyer Initials) _____(Seller Initials) Seller does not allow any of the above reference transaction costs to go towards Buyer Broker Compensation

Buyer is responsible for any Buyer's transaction costs exceeding this amount. If the amount exceeds the actual amount of those costs or amount allowed by Lender, then any excess funds will revert to Seller. If no Closing, Buyer is responsible for Buyer's transaction costs and Seller responsible for Seller's transaction costs.

[] BUYER [] BUYER [] SELLER [] SELLER
 [] BUYER [] BUYER [] SELLER [] SELLER

WESTERN UPSTATE MULTIPLE LISTING
SERVICE

OF

SOUTH CAROLINA INC.

RULES AND REGULATIONS

Revised: July 202~~4~~³

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WESTERN UPSTATE MULTIPLE LISTING SERVICE OF SOUTH CAROLINA INC. RULES AND REGULATIONS

Rev. 7/2023

The Western Upstate Multiple Listing Service of South Carolina Inc. (hereinafter sometimes referred to as the “multiple listing service” or “MLS”) is a means ~~by which authorized participants make blanket unilateral offers of cooperation and compensation to the other participants (acting as transaction brokers or buyers agents) by which cooperation among participants is enhanced;~~ by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. ~~Entitlement to compensation is determined by the cooperating broker’s performance as a procuring cause of the sale (or lease). Procuring cause is defined as the action that started a series of events that, without interruption, would have led to the consummation of the sale.~~ The term “association” as used herein shall mean and refer to Western Upstate Association of REALTORS® Inc. (WUAR).

SECTION 1 **LISTING PROCEDURES**

Section 1 - Listing Procedures: Listings of real property of the following types, which are listed subject to the real estate broker’s license and are located within the territorial service area of the Western Upstate Multiple Listing Service and are taken by the participants on an exclusive right-to-sell listing agreement, exclusive agency listing agreement, or transaction brokerage listing agreement basis, shall be delivered to and input into the MLS database within one business day after all necessary signatures of seller(s) have been obtained and/or any public marketing:

- (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

The 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 may be required as approved by the MLS. However, the MLS, through its legal counsel:

- may reserve the right to refuse to accept a listing form that fails to adequately protect the interests of the public and the participants
- may assure that no listing form filed with the MLS establishes, directly or indirectly, any contractual relationship between the MLS and the client (buyer or seller)

The MLS shall accept exclusive right-to-sell listing contracts, exclusive agency listing contracts, and transaction brokerage listing agreements, and may accept other forms of agreement that make it possible for the listing broker to cooperate with offer compensation to the other participants of the MLS acting as buyer agents or transaction brokers, or both. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing

to prospective purchasers and tenants when it is in the best interests of their clients.

The listing agreement must include the seller's written authorization to submit the agreement to the MLS or the seller's written authorization that the property be excluded from the MLS.

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

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation ~~and compensation with other brokers in the sale of the property on blanket unilateral bases,~~ but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis ~~without compensating the listing agency.~~

The transaction brokerage listing agreement must also authorize the listing broker to offer cooperation ~~and compensation with other brokers in the sale of the property on blanket unilateral bases,~~ but states that the listing agency is only offering customer, not client, service to the seller.

Exclusive agency listings, exclusive right-to-sell listings, or transaction brokerage listing agreements with named prospects exempted should be clearly distinguished in agent remarks, since they can present risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings, exclusive agency listings, or transaction brokerage listings with no named prospects exempted.

The MLS does not regulate the type of listings its participants may take. This does not mean that the MLS must accept every type of listing. The MLS does not accept open listings or net listings, and it may limit its service to listings of certain kinds of property. Participants, however, are free to accept other types of listings to be handled outside the MLS. The MLS does not accept the listing of a property in which the seller only has an equitable interest. The MLS does not allow listings of contracts, options or personal property.

The MLS will accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they will be included in a separate section of the MLS compilation of current listings.

The MLS does not accept the listing of a property in which the seller only has an equitable interest. The MLS does not allow listings of contracts, options or personal property.

Section 1.01 - Clear Cooperation: Within one business day of marketing a residential property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public-facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. ~~(Adopted 11/19)~~

Section 1.1 - Types of Properties: Following are some of the types of properties that may be published through the MLS, including types described in the preceding paragraph that are required to be filed with the MLS and other types that may be filed with the MLS 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:

Residential	Motel-Hotel	Residential Income	Mobile Homes
Subdivided Vacant Lot	Mobile Home Parks	Land and Ranch	Commercial Income
Business Opportunity	Industrial		

Section 1.1.1 - Listings Subject to Rules and Regulations of the Multiple Listing Service: Any listing taken to be filed with the MLS is subject to the rules and regulations of the service upon signature of the seller(s). All new listings must be input in the MLS system within one (1) business day of the seller's signature or within one (1) business day of public marketing, with the only exception being holidays and weekends.

Section 1.2 - Details on Listings Filed with the Service: A listing agreement or property data form, when filed with the MLS by the listing broker, shall be complete in every detail that is ascertainable as specified on the property data form. All "required" fields are indicated on "input/maintenance" and must be completed correctly on all listings. Should any listing not have this information completed correctly, the listing agent will be notified and will have 24 hours after notification to correct the problem or the listing is subject to being removed from the MLS.

Section 1.2.0 - Accuracy of Listing Data: Participants and subscribers are required to submit accurate listing data and are required to correct any known errors.

Section 1.2.1 - Limited Service Listings: Listing agreements under which the listing broker will not provide one, or more, of the following services are to be labeled as limited service listings:

- 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 counteroffers
- e. Participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

These listings will be identified with an appropriate code or symbol (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 1.3 - Exempt Listings: If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing as an "office exclusive" and not enter it into the MLS. MLS participants must distribute exempt listings within one (1) business day once the listing is publicly marketed.

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. Under-contract status must be put in the service within one (1) business day of the signed contract, with the only exception being holidays and weekends.

Section 1.5 - Withdrawal of Listings Prior to Expiration: Listings of property may be withdrawn from the MLS by the listing broker before the expiration date of the agreement, provided the listing agency has the seller's written authorization to remove the listing prior to expiration. Sellers do not have the unilateral right to require the MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his or her exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the seller.

Section 1.5.1 - Cumulative Days on Market: For 45 days after withdrawal, expiration or sale of a listing, cumulative days on market shall continue to run.

Section 1.5.2 - Change of Status to "Hold Do Not Show": Listings of property may be changed to "hold do not show" status in the MLS by the listing broker. This is usually a temporary status and must be requested by the seller. No signs may be placed or left on a property in hold do not show status and no showings, even by the listing agent, may be held during the "off-market" time frame.

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

Section 1.7 - Listing Price Specified: The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

Section 1.8 - Listing Multiple-Unit Properties: All properties that are to be sold or that 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 MLS.

Section 1.9 - No Control of Commission Rates or Fees Charged by Participants: The MLS shall not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by participants. Further, the MLS 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 MLS 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 received 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).

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

Section 1.11.1 - Deletion of Listings: Property listings will not be deleted from the MLS, except under two circumstances: duplication of the listing or accidental entry meant to be left as incomplete.

Section 1.12 - Service Area: Only listings of the designated types of property located within the service area of the Western Upstate MLS are required to be submitted to the MLS. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant, but cannot be required by the MLS.

Section 1.13 - Listings of Suspended Participants: When a participant of the MLS 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 MLS 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 or MLS (or both) for failure to pay appropriate dues, fees or charges, the association or MLS is not obligated to provide 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 or her clients.

Section 1.14 - Listings of Expelled Participants: When a participant 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 obligation, 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 MLS 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 or MLS (or both) for failure to pay appropriate dues, fees or charges, the MLS is not obligated to provide 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 will be advised, in writing, of the intended removal so that the expelled participant may advise his or her 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 will be advised, in writing, of the intended removal so that the resigned participant may advise his or her clients.

Section 1.16 - Remarks: The “remarks” section of the input page is to allow listing agents to provide additional information regarding the listed property to consumers and cooperating agents. Information including, but not limited to, the name, phone number, and email address of the listing company, the listing agent, or the property owner is not allowed in the public remarks section. Also disallowed is any statement such as “call listing agent for more information” or similar instruction.

Section 1.17 - Photographs: Participants are required to insert photographs of listed property directly into the MLS database for viewing by consumers and cooperating agents. When doing so, however, participants should be careful that no information identifying the listing agent or agency, including agency signs, are included in these photographs. One photograph of the property must be entered into the MLS within 72 hours. For single-family homes, the primary photo must be an unobstructed view of the exterior front or back of the structure.

Section 1.17.1 - Removal of Photos After Closing: When the current owner requests that photos of the property be removed from the MLS, that request must be made in writing. One photo must remain for the historical data to be complete. The owner may also request, in writing, that the associated documents of the newly purchased property be removed.

Section 1.17.2 - Correction of Listing Information After Closing: Correction of information on MLS properties made after closing should be made within 14 days of closing. Corrections must be made by the broker-in-charge (BIC) or associated licensee and not by WUAR MLS staff.

Section 1.17.3 - Branded and Unbranded Virtual Tours: Unbranded virtual tours cannot contain agent and office information. Only branded virtual tours are allowed to contain agent and office information.

Section 1.18 - Directions: Agent and office information may not be entered into the directions section of the MLS. If references are made to following office signs in the directions section of the MLS, the notation should read “follow signs” instead of “follow XYZ REALTY signs.”

Section 1.19 - Duplication of Listings: Listings are only allowed to be entered once into the MLS with two exceptions: (1) If the listing could be considered more than one property class (i.e., residential, land, multi-family or commercial) or (2) if there is a significant amount of property being sold. In either case, one listing with the entire property can be entered, along with a second listing for one portion of the property and a third listing for the remaining property.

Section 1.20 - Proposed Closing Date: If the proposed closing date of a property passes without closing, the listing agent must amend the proposed closing date within forty-eight (48) hours to the new negotiated closing date.

Section 1.21 – Property Addresses: At the time of filing a listing, participants and subscribers must include a property address available to other participants and subscribers, and if an address doesn’t exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location.

SECTION 2
SELLING PROCEDURES

Section 2 - Showings and Negotiations: Appointments for showings and negotiations with the seller for the purchase of listed property filed with the 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 or her representative. However, the listing broker, at the listing broker's option, may preclude such direct negotiations by cooperating brokers.

Section 2.0.1 - Business Cards: Business cards of the showing agent are not to be left at a property being shown to a customer/client, unless specifically requested to do so by the listing broker or the seller.

Section 2.1 - Presentation of Offers: The listing broker must present all written offers in a timely manner or give the cooperating broker a satisfactory reason for not doing so.

Section 2.2 - Submission of Written Offers and Counteroffers: The listing broker shall submit to the seller all written offers and counteroffers until closing. The listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of any subsequent offers.

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counteroffers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a preexisting contract has been terminated.

Section 2.3 - Right of Cooperating Broker in Presentation of Offers: The cooperating broker (buyer agent or transaction broker) or his or her representative has the right to participate in the offer presentation to the seller or lessor of any offer he or she secures to purchase or lease. He or 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 Counteroffers: The listing broker or his or her representative has the right to participate in the presentation of any counteroffer made by the seller or lessor. He or she does not have the right to be present at any discussion or evaluation of a counteroffer by the purchaser or lessee. However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counteroffer 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 and sales prices, shall be reported by the listing broker within twenty-four (24) hours after they have occurred.

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 the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS.

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

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

Section 2.7 - Advertising of Listings Filed with the Service: A listing shall not be advertised by any participant other than the listing broker without the prior consent of the listing broker and the property owner.

Section 2.8 - Reporting Cancellation of Pending Sales: The listing broker shall report immediately to the MLS the cancellation of any pending sale, and the listing shall be reinstated.

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.

SECTION 3
REFUSAL TO SELL

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

SECTION 4
PROHIBITIONS

Section 4 - Information for Participants Only: Any listing filed with the MLS 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 Listings Filed with the Service: Participants shall not solicit a listing on property filed with the service, unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice and its Case Interpretations.

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

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

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

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

Section 4.4 - Use of the Terms Multiple Listing Service and MLS: No participant, subscriber or

licensee affiliated with any participant shall, through the name of their firm, their URLs, their email addresses, their website addresses, or in any other way represent, suggest or imply that the individual or firm is a multiple listing service, or that they operate a multiple listing service. 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 these rules to provide to clients or customers is available on their websites or otherwise.

Section 4.5 - MLS Non-Branding Rules: No participant branding or company branding of any type (including home warranty companies, inspection companies, etc.) shall be placed within the “public remarks” section of the MLS. Details pertaining to company names, real estate service providers, email addresses, websites, phone numbers, etc., shall be placed in the “member remarks” or “syndicated remarks” section only.

Section 4.6 – Services Advertised as “Free”: MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services.

Section 4.7 – Filtering of Listings: Participants and subscribers must not filter out or restrict MLS listings that are communicated to customers and clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.

SECTION 5
DIVISION OF COMMISSIONS
NO COMPENSATION
NOTICE

Section 5 – No Compensation Specified on MLS Listings: Participants, subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS. Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant’s access to any MLS data or data feeds. The multiple listing service does not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service prohibits disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers. The multiple listing service has no rule on the division of commissions between participants and nonparticipants. This is the sole responsibility of the listing broker.

Specified on Each Listing: The listing broker shall specify, on each listing filed with the MLS, the compensation offered to other MLS 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 the 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 the cooperating broker that the commission established in the listing agreement might not be paid.~~

~~In filing a property with the MLS, the participant is making blanket unilateral offers of compensation to the other MLS participants acting as buyer agents or transaction brokers 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 or her compensation shall be prior to his or her endeavor to sell.~~

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

~~by showing a percentage of the gross selling price~~

~~by showing a definite dollar amount~~

~~The listing broker retains the right to determine the amount of compensation offered to other participants (acting as transaction brokers or buyer agents), 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 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 MLS shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his or her listing contract, and the association MLS shall not publish the total negotiated commission on a listing that has been submitted to the MLS by a participant. The association MLS 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 MLS participants for their services with respect to any listing by advance published notice to the service prior to the presentation of the participant's offer so that all participants will be advised.~~

~~**Note 3:** The MLS 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:** MLSs, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction.~~

~~**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.~~

~~**Note 6:** MLSs must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as transactions where the 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. MLSs 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, the participant 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.~~

Section 5.0.0 Required Consumer Disclosure Regarding Compensation: MLS Participants and subscribers must:

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

Section 5.0.1 - Disclosing Potential Short Sales: Participants must disclose potential short sales (defined as transactions 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. ~~When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.~~

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 MLS, that person shall disclose that interest when the listing is filed with the MLS, and such information shall be disseminated to all MLS participants.

Section 5.2 - Participant as Purchaser: If a participant or any licensee (including licensed 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 – Written Buyer Agreement: Unless inconsistent with state or federal law or regulation, all MLS participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

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

~~**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 his or her client before the client makes an offer to purchase or lease.~~

~~**Section 5.4 – Responsibility for Payment of Fee:** When a cooperative fee is offered through the MLS, the listing broker is required to pay the cooperative fee to the transaction broker or buyer agent (as listing agent designates in the MLS), even when the cooperating agent is referred directly to the owner of the property for showing and negotiations.~~

~~**Section 5.5 – Bonuses and Incentives:** All terms and conditions of bonuses or incentives offered to other MLS participants to show, refer or close a property, whether cash or noncash, shall be disclosed in clear and understandable language so that the participant interested in benefiting or receiving the bonus or incentive will have a clear, thorough, advance understanding of all of the terms and conditions of the offer prior to acceptance. Information regarding bonuses or incentives should be placed in the private agent remarks section. The listing broker is responsible for and is required to pay any bonus or incentive offered through the MLS, even though “offered by the seller.” Any seller concessions made directly to the buyer should be noted in the offer to purchase.~~

~~**Section 5.6 – Display of Listing Broker’s Offer of Compensation:** Participants and subscribers who share the listing broker’s offer of compensation for an active listing must display the following disclaimer or something similar.~~

~~*The listing broker’s offer of compensation is made only to participants of the MLS where the listing is filed.*~~

SECTION 6 **SERVICE CHARGES**

Section 6 - Service Fees and Charges: Each participant shall pay a reasonable monthly service fee to cover general expenses of the MLS. The monthly service fee (the company fee) will be assessed per physical location or branch office, even though there may be one BIC for multiple locations. The monthly participation fee of each participant shall be an amount set by the board of directors of the MLS (as it may determine from time to time), which charge shall be multiplied times each salesperson or licensed or certified appraiser who has access to and use of the MLS, whether licensed as a broker, salesperson, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. Fees are subject to change from time to time at the discretion and by vote of the board of directors. All fees are due on the first of each month and payable by the 10th of each month. Late fees (set by the board of directors from time to time) go into effect if the fees are not received by the MLS by the 10th of each month. In addition, a reinstatement fee of \$100 will be added if fees are not paid by the end of the month.

When any property is filed with the MLS, a listing filing fee shall be due in an amount set by the board of directors of the MLS from time to time.

If a participant's charges and fees payable to the MLS are unpaid by the end of the month in which they become due, the MLS shall have the right to discontinue access to and use of the MLS until all charges and late fees are paid current.

The MLS will provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the BIC participates. The MLS may, at its discretion, require waiver recipients and their BICs to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated.

SECTION 7 **COMPLIANCE WITH RULES**

Section 7 - Compliance with Rules: By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. All complaints must be in writing and on a form prescribed by the association. 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 that the participant or subscriber can reasonably attend, taking into consideration cost, location and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges and services for not less than 30 days nor more than one year
- f. termination of MLS rights, privileges and services with no right to reapply for a specified period not to exceed three years

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

Note 2: MLS participants and subscribers can receive no more than three administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a

hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant, and the participant is required to attend the hearing of a subscriber who has received more than three administrative sanctions within a calendar year. (Adopted 11/20)

Section 7.1 - Compliance with Rules: Additionally, The following actions may be taken by the MLS for noncompliance with the rules:

(a) For failure to pay any service charge or fee within one month of the date due, and provided that at least 10 days' notice has been given, the MLS shall have the right to suspend the participant's use of the MLS until service charges or fees are paid in full; and

(b) for failure to comply with any rules and regulations and any other MLS governance provision, the provisions of Sections 9 and 9.1 shall apply.

Section 7.2 - Failure to Comply: In addition to the other provisions of these rules and regulations, when the participant is notified of any violation of rules and regulations of the MLS, the participant will have 10 days after delivery of the notification to become compliant. If the participant fails to comply within 10 days of notification of a violation, the MLS may, in addition to any and all other remedies available to the MLS, charge the noncompliant participant \$25 each day such violation continues, such daily charge not to exceed 30 consecutive days. If the participant is still noncompliant after the 30-day period ends, the MLS shall have the right, in addition to any and all other remedies available to the MLS, to suspend the participant (including the primary office and branch offices) from use of the MLS until such time as the participant complies with these rules and regulations.

Section 7.3 - 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 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.

SECTION 8 **MEETINGS**

Section 8 - Meetings: The meetings of the participants in the MLS or the board of directors of the MLS for the transaction of business of the service shall be held in accordance with the provisions of Section 7 of the bylaws of the MLS.

SECTION 9 **ENFORCEMENT OF RULES OR DISPUTES**

Section 9 - Consideration of Alleged Violations: The board of directors will give consideration to all written complaints having to do with violations of these rules and regulations and any other MLS governance provision. The board of directors may also establish a committee to give consideration to all written complaints having to do with violations of these rules and regulations

and any other MLS governance provision.

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

Section 9.1 - Violations of Rules and Regulations: If the alleged offense is in violation of rules and regulations of the MLS and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the board of directors, 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 before the Professional Standards Committee of the association in accordance with the bylaws and rules and regulations of the Association of REALTORS® within 20 days following receipt of the board of directors' decision.

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

Each participant is responsible for compliance with all rules and regulations for himself or herself and for all persons affiliated with him or her who use the MLS.

Section 9.2 - Complaints of Unethical Conduct: All other complaints of unethical conduct shall be referred by the board of directors of the MLS to the association for appropriate action in accordance with the professional standards procedures established in the association's bylaws.

Section 9.3 - Complaints of Unauthorized Use of Listing Content: Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, shall specifically identify the allegedly unauthorized content, and shall be delivered to the MLS not more than 60 days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules. Upon receiving a notice, the board of directors (or its designated committee) will send the notice to the participant who is accused of unauthorized use. Within 10 days from receipt, the accused participant must either:

- 1) remove the allegedly unauthorized content, or 2) provide proof to the board of directors (or its designated committee) that the use is authorized. Any proof submitted will be considered by the board of directors (or its designated committee), and a decision of whether it establishes authority to use the listing content will be made within 30 days. If the board of directors (or its designated committee) determines that the use of the content was unauthorized, the board of directors (or its designated committee) may issue a sanction pursuant to Section 7 of these rules and regulations,