

REALTORS® ASSOCIATION OF MAUI

MLS RULES AND REGULATIONS



REALTORS® ASSOCIATION OF MAUI, INC.

Certified with NAR March 5, 2021

Approved and Adopted by the Board of Directors March 4, 2022

Includes NAR 2022 mandated changes

MLS Rules and Regulations
Table of Contents

	Page
Purpose	1
Part One: Key Definitions	
Section 1. Multiple Listing Service (MLS) Defined	2
Section 2. Definition of MLS Participant	2
Section 3. Definitions of Various Types of Listing Agreements	4
Section 4. Listing Content Defined	4
Section 5. General RAM Definitions	4
Part Two: MLS Rules and Regulations	
Listing Procedures	
Section 1. Listing Procedures	6
Section 1.01 Clear Cooperation	7
Section 1.1 Types of Properties	7
Section 1.1.1 Listings Subject to Rules and Regulations of MLS	7
Section 1.1.1a Duplicate Listings are Prohibited in MLS	7
Section 1.1.1b Definitions of Condominium v. Residential Condominium	8
Section 1.2 Detail on Listings Files with MLS	8
Section 1.2.1 Limited Service Listings	8
Section 1.2.2 MLS Entry-only Listings	8
Section 1.3 Exempt Listings	9
Section 1.4 Change of Status of Listing	9
Section 1.5 Withdrawal of Listing Prior to Expiration	9
Section 1.6 Contingencies Applicable to Listings	9
Section 1.7 Listing Price Specified	9
Section 1.8 Listing Multiple Unit Properties	10
Section 1.9 No Control of Commission Rates of Fees Charged by Participants	10
Section 1.10 Expiration of Listing	10
Section 1.11 Termination Date of Listing	10
Section 1.12 Service Area	10
Section 1.13 Listings of Suspended Participants	10
Section 1.14 Listings of Expelled Participants	10
Section 1.15 Listing of Resigned Participants	11
Section 1.16 Property Address	11
Selling Procedures	
Section 2 Showings and Negotiations	11
Section 2.1 Presentation of Offers	11
Section 2.2 Submission of Written Offers and Counter Offers	11
Section 2.3 Right of Cooperating Broker in Presentation of Offer	11
Section 2.4 Right of Listing Broker in Presentation of Counter-offer	11
Section 2.5 Reporting Sales to the Service	12
Section 2.6 Reporting Resolutions of Contingencies	12

Section 2.7 Advertising of Listings	12
Section 2.8 Reporting Cancellation of Pending Sale	13
Section 2.9 Disclosing the Existence of Offers	13
Section 2.10 Availability of Listed Property	13
Refusal to Sell	
Section 3 Refusal to Sell	13
Prohibitions	
Section 4 Information for Participants Only	13
Section 4.1 For Sale Signs	13
Section 4.2 Sold Signs	13
Section 4.3 Solicitation of Listing Filed with the Service	13
Section 4.4 Use of the Terms MLS and Multiple Listing Service	14
Section 4.5 Representation of Services	14
Division of Commission	
Section 5 Compensation Specified on Each Listing	14
Section 5.0.1 Disclosing Potential Short Sales	16
Section 5.1 Participant as Principal	16
Section 5.2 Participant as Purchaser	16
Section 5.3 Dual or Variable Rate Commission Arrangements	16
Section 5.4 Display of listing Broker's Offer of Compensation	17
Service Charges	
Section 6 Service Fees and Charges	17
Compliance with Rules	
Section 7 Compliance with Rules – Authority to Impose Discipline	17
Section 7.1 Compliance with Rules	18
Section 7.2 Applicability of Rules to Users and Subscribers	18
Meetings	
Section 8 Meetings of MLS Committee	18
Section 8.1 Meetings of MLS Participants	18
Section 8.2 Conduct of Meetings	18
Enforcement of Rules or Disputes	
Section 9 Consideration of Alleged Violations	18
Section 9.1 Violation of Rules and Regulations	18
Section 9.2 Complaints of Unethical Conduct	19
Section 9.3 Complaints of Unauthorized Use of Listing Content	19
Section 9.4 MLS Rules Violations	19
Confidentiality of MLS Information	
Section 10 Confidentiality of MLS Information	19
Section 10.1 MLS Not Responsible for Accuracy of Information	20
Ownership of MLS Compilation and Copyright	
Section 11 Ownership of MLS Compilation and Copyright	20
Section 11.1	21
Section 11.2 Display	21

Use of Copyrighted MLS Compilation	
Section 12 Distribution	21
Section 12.1 Display	21
Section 12.2 Reproduction	21
Use of MLS Information	
Section 13 Limitations of Use of MLS Information	22
Section 14 Changes in Rules and Regulations	22
Section 15 Arbitration of Disputes	23
Section 16	23
Section 17 Orientation	23
Section 18 IDX Defined	23
Section 18.1 Authorization	23
Section 18.2 Participation	23
Section 18.3 Display	25
Section 18.4 Service Fees and Charges	26
Section 19 Virtual Office Websites (VOW)	27
Section 20 Broker Back Office Feed	31
Section 21 Participation Valuation Data Use	32
Section 22 Lockbox Rules and Regulations Definitions	34
Section 23 Lockbox Rules and Regulations Policies	34
Section 23.1 Lockbox	34
Section 23.2 License to Use	35
Section 23.3 Purpose	35
Section 23.4 Revocation/Refusal of License	35
Section 23.5 Security of Lockbox Key and Property Key	36
Section 23.6 Security Protocols	37
Section 23.7 Lost or Stolen Key	37
Section 23.8 Audit/Inspection	37
Section 23.9 Failure to Comply and Violation	37
Section 23.10 Fines and Penalties	38
Section 23.11 Designated REALTORS® and Holder's Responsibilities	38
Section 23.12 Requirement of Identification	39
Section 23.13 Action to Enforce	39
Section 23.14 Authorization	39
Section 23.15 Repurchase/Resale of Lockboxes	39
Section 23.16 Holder's Termination of the User Agreement	39
Section 23.17 Proper Use of Lockbox System	39

Section 23. 18 Allocation of Keys	40
Section 23. 19 Various Fees	40
Section 23.20 Miscellaneous	40
Schedule A: Service Fees, Fines, and Charges	41
Exhibit B: MLS Fine Waiver Request	47
Procedure for MLS Hearing	48

Purpose

Through the facility of multiple listing, information concerning individual listings can be made known to all REALTORS® who participate in the activity. In associations of REALTORS® with few members, the actual operation can be very simple. Each REALTOR® can duplicate enough copies of the information concerning his listing to distribute to all other participants. However, when many REALTORS® are involved, the distribution of information becomes more burdensome and may require reasonable rules of procedure and efficient central office management to expedite the service. Regardless of the method, however, the basis of the multiple listing activity is the creation of a facility whereby REALTORS® may most effectively invite other brokers to enter into cooperative agreements with them for the sale of their listings and provide information necessary to permit such cooperation; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals and other valuations of real property; and by which participants engaging in real estate appraisal contribute to common databases. *(Amended 4/92)*

[These Rules and Regulations conform to the mandatory MLS Policies established by the National Association's Board of Directors in the 2022 Multiple Listing Policy.](#)

Part One: Key Definitions

Section 1 Multiple Listing Service (MLS) Defined

A multiple listing service is:

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

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

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

Section 2 Definition of MLS Participant (Policy Statement 7.9)

Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. *(Amended 11/08)*

**Compensation is unconditional except where local MLS rules permit listing brokers to reserve the right to reduce compensation offers to cooperating brokers in the event that the commission established in a listing contract is reduced by court action. Refer to Part Two, G., Section 1, Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS®, Handbook on Multiple Listing Policy. (Adopted 11/98, Revised 11/09)*

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

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

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

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

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

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

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

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

Section 3 Definitions of Various Types of Listing Agreements (Policy Statement 7.50)

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

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

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

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

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

Section 4 Listing Content Defined (Policy Statement 7.86)

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

Section 5 General RAM Definitions

Board means all boards and associations of REALTORS® recognized by the National Association of REALTORS® which are located in the state of Hawaii.

Board of Choice has the meaning set forth in the National Association of REALTORS® Handbook on Multiple Listing Policy.

List Date means the date on which the last of the signatures of seller(s) and Broker have been obtained on a Listing Agreement, or the listing period start date, whichever is later. (1/13)

Listing Agreement means Exclusive Agency Listing Agreements and Exclusive Right to Sell Listing Agreements. All Listing Agreements must be in written form. (1/13)

Listings Intellectual Property has the meaning set forth in Section 13.3 of these Rules and Regulations.

Office Assistant means an employee or agent of Participant who is an affiliated unlicensed administrative/clerical staff member, personal assistant, or individual seeking licensure or certification as real estate appraiser, provided that any such individual is under the direct supervision of a Participant, or the Participant's licensed designee, who is granted certain rights under these Rules and Regulations, in RAM's sole discretion, and who has accepted the terms and conditions of these Rules and Regulations.

RAM means REALTORS® Association of Maui, Inc.

RAM's Website means the website with the uniform resource locator of www.ramaui.com, www.mauiboard.com, or a substitute website, in RAM's sole discretion, or any other location where data may be made available to Participants pursuant to these Rules and Regulations.

Rules and Regulations means these rules and regulations of RAM, which rules and regulations relate to the MLS.

User means any person who has access to and use of any of the data included in the MLS or Multiple Listing Services provided by RAM, and includes Participants, non-principal brokers, sales licensees and agents, licensed and certified real estate appraisers affiliated with a Participant, Office Assistants, and others authorized by RAM to have access to the MLS.

Part Two: MLS Rules & Regulations

Section 1 Listing Procedures

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of RAM, shall be input into the multiple listing service within two (2) business days after the List Date. *(Amended 11/01)*

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange
- d. condominium units, townhouses, or any other individual dwelling units in a multiple-unit structure or Planned Unit Development (PUD).

Note 1: The multiple listing service shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:

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

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other participants of the multiple listing service acting as subagents, buyer agents, or both. *(Amended 11/96)*

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

The different types of listing agreements include:

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

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

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

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, 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 exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. *(Amended 4/92)*

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

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

Section 1.01 Clear Cooperation

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

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

Section 1.1 Types of Properties

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

- residential
- vacant land
- condominium
- fraction-partial-interval
- multi-dwelling residential
- rental – long term
- business
- commercial

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). **R**

Section 1.1.1a. Duplicate Listings are Prohibited in MLS (unique to RAM)

Duplicate Listings are Prohibited in MLS and are subject to a fine (see Schedule A). Duplicate Listings are defined as simultaneous listings of the same or overlapping properties in an Active, Pending, or Contingent status.

- Examples of Duplicate Listings:
 - a. Condominium listed for sale as whole property and as fractions of the same property.
 - b. Multiple parcels separately listed for sale individually and also as a single large parcel.
 - c. Freestanding Condominiumized Single-Family structure listed in both Condominium Class and Residential Class. *(Approved 1-15 / 3-15/BD)*

Section 1.1.1b. Definitions of Condominium v. Residential Condominium (unique to RAM)

- a. Condominium = CPR and no deeded land area specific to the unit.
- b. Residential Condominium = CPR and deeded land area specific to the unit.

Due to the evolution of “hybrid” property building styles, a reference list of Condominiumized properties defining which Property Class and Type each is to be listed under is available separate from these Rules and Regulations within Paragon “MLS Documents.” (Approved 1-15 / 3-15/BD)

Section 1.2 Detail on Listings Filed with the Service

Any Listing, including all information included on a Listing Input Form, when submitted by the listing broker to RAM for inclusion in the MLS, shall be complete in every detail which is ascertainable as specified on the listing input form (Listing Input Form may be either electronic or on paper). All data shall only be entered into its assigned data field. Public Remarks are mandatory input on all listings, to be included at time of initial data input. Leasehold, Residential CPR, REO, and Short Sale properties shall be noted in Public Remarks.

Failure to input at least one photo/image of Subject Property that accurately depicts listed property (or view from Subject Property).

Section 1.2.0. Accuracy of Listing Data

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

Section 1.2.1 Limited Service Listings

Listing agreements under which the listing broker will not provide one, or more, of the following services will be identified with an appropriate code such as “Excl Agency-Limited Service” 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:

- 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 **O**

Section 1.2.2 MLS Entry-only Listings

Listing agreements under which the listing broker will not provide any of the following services will be identified with an appropriate code such as “Excl Agency-MLS Only” 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.

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

Section 1.3 Exempt Listings

Filing of an Office Exclusive (Exempt) Listing shall be accompanied by written instruction, acceptable to RAM, signed by the seller that he or she does not desire the listing to be included in the MLS and available to other Participants. The blank MLS Exempt Listing form shall be provided by RAM. The sellers' written instruction and copy of Listing Contract shall be submitted to RAM within two (2) business days after receipt by the listing broker. Failure to notify RAM within two (2) business days shall result in a Late Reporting Fine (see Schedule A). (Approved 3-15/BD)

Note 2: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation **M**

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 and shall be filed with the service within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker. **R**

The status of each Listing shall be appropriately shown in the MLS as one of the following:

- Active
- Participants Only
- Canceled
- Contingent – Escrow Canceling
- Contingent – With Release
- Expired
- Pending – Continue to Show
- Pending – Do Not Show
- Sold
- Temporarily Off Market
- Withdrawn

A change in the status of any Listing must be reported within two (2) business days. (Approved 1-13/BD)

The status of any Listing, except Pending-Continue to Show and Pending-Do Not Show will automatically be changed to Expired at midnight on the date of termination or expiration of the Listing under the applicable Listing Contract. In the case of all pending listings, listing brokers should have the applicable Listing Contract amended to extend the expiration date to at least the anticipated closing date for the transaction. (Approved 1-13/BD)

The days on market (DOM) will be calculated from the List Date until the time the Listing becomes Sold, Expired, or Canceled.

Section 1.5 Withdrawal of Listing Prior to Expiration

The cancellation of a listing and the written notice shall be maintained by the listing brokerage, and made available to RAM upon request.

Sellers do not have the unilateral right to require RAM to change the status of a listing to Canceled without the listing broker's consent. However, when a seller(s) can document that his or her exclusive relationship with the listing broker has been terminated pursuant to the terms of the Listing Contract, RAM may change the listing status to Canceled. **M**

If a listing has been Canceled or Expired for fewer than thirty (30) days and relisted by the same listing firm, the original Multiple Listing Service number and List Data will apply.

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 in the REALTOR remarks section. **R**

Section 1.7 Listing Price Specified

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

Section 1.8 Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the listing 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. **O**

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. **M**

Section 1.10 Expiration of Listings

Listings filed with the multiple listing service will automatically be removed from the compilation of current listings at midnight (Hawaii Standard Time) on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. *(Amended 11/01)*

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

Section 1.11 Termination Date on Listings

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

Section 1.12 Service Area

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

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 obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a participant has been suspended from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise his clients. **M**

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

Section 1.15 Listings of Resigned Participants

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

Section 1.16 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. (Amended 05/21). **M**

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, including an MLS Entry-Only listing, or
- b. after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (Amended 4/92) **M**

Section 2.1 Presentation of Offers

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

Section 2.2 Submission of Written Offers and Counter-offers

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. (Amended 11/05) **M**

Section 2.3 Right of Cooperating Broker in Presentation of Offer

The cooperating broker or his representative has the right to participate in the presentation of any offer they secure to purchase or lease to the seller or lessor. They do 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. This policy is not intended to affect the listing brokers' right to control the establishment of appointments for such presentations. (Amended 4/92) **M**

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

Section 2.4 Right of Listing Broker in Presentation of Counter-offer

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

Section 2.5 Reporting Sales to the Service

Status changes, including final closing of sales and sales prices, shall be reported to the multiple listing service by the listing broker within two (2) business days after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within twenty-four (24) hours after occurrence and the listing broker shall report them to the MLS within twenty-four (24) hours after receiving notice from the cooperating broker. *(Amended 11/11)*

All Users are required to report all sales (listed or unlisted, including assisted sales) in which they participate (as a principal or agent) to RAM within two (2) business days of closing.

“Sold before Listed” properties are required to use Actual Contract date as both **List Date** and **Contract Date** to avoid skewing Market Statistics. A Main photo is required input. The **Expiration** and **Closing** dates are the date sale was recorded. (Approved 1-13/BD)

Failure to timely report a sale will result in a fine (see Schedule A).

Note 1: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants. *(Amended 11/01)*

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

Section 2.6 Reporting Resolutions of Contingencies

The listing broker shall report a canceled sale within two (2) business days to RAM, and the status of the listing shall be changed to contingent escrow canceling until formal termination of the escrow for the transaction. Details shall be disclosed in REALTOR® remarks section of the listing. **M**

Section 2.7 Advertising of Listings Filed with the Service

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

- a. Listing Agent **name**, seller contact information, and escrow company preference or contact information shall not be displayed in any area other than those accessible to REALTORS® only, such as agent reports and the REALTOR® remarks section of the Listing. Additionally, “Call Listor” type comments, or any information that leads consumer to Listing Company/Agent and/or seller contact information (including, but not limited to: Open House Announcements Website URLs, email address, or phone numbers), are prohibited in Public Remarks. This also includes any domain names, such as Homepath.com, Auction.com, Homesearch.com, etc. Only exception allowed “Listor/Co-Listor is Seller” or “Listor/Co-Listor is related to Seller”). One (1) link/URL for an Unbranded Video/Tour may be placed in public remarks. (BOD 7/2020)
- b. RAM acknowledges that all real estate advertising and promotional materials shall include the legal name of the brokerage firm or a trade name previously registered by the brokerage firm with the State of Hawaii Business Registration Division and with Real Estate Commission of the State of Hawaii Department of Commerce and Consumer Affairs. However, notwithstanding the foregoing obligation, the name or other information to identify the listing agent or broker information shall not be displayed or discernible in the domain names of virtual tours, or photographs entered into the MLS. (See Schedule A).

For Virtual Tours or videos entered into the MLS, Listing Firm Name and Brokerage License # ONLY may be displayed no longer than the beginning 15 seconds of the video at the bottom of the image in a size no greater than 10% of the total vertical image size. (08-28-15/BD)

c. Advertising of an Unlisted Property

No property may be advertised or promoted by any means including signage, print, email, social media or any other forms of pre-MLS marketing, including but not limited to; "Coming Soon", "Sneak Preview" or "Pocket Listing" without a signed listing agreement on file with the listing broker. A signed Waiver of MLS Benefits form must be included authorizing delay of entry of the listing to MLS. The sellers' written instruction and copy of listing contact shall be submitted to RAM within one (1) business day after receipt by the listing broker. In the case of multiple listings each listing will be considered a separate violation. Failure to notify RAM within one (1) business day shall result in a fine (see Schedule A)

Section 2.8 Reporting Cancellation of Pending Sale

The listing broker shall report a canceled sale within two (2) business days to RAM, and the status of the listing shall be changed to Contingent-Escrow canceling until formal termination of the escrow for the transaction. Details may be disclosed REALTOR® remarks section of the listing. **M**

Section 2.9 Disclosing the Existence of Offers

Unless otherwise instructed by the seller, listing brokers, in response to inquiries from buyers or cooperating brokers shall 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. (Amended 11/08) **O**

Section 2.10 Availability of Listed Property

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

Refusal to Sell

Section 3 Refusal to Sell

If the seller of any listed property in the MLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to RAM and to all participants by noting such in the REALTORS® remarks section of the listing. **R**

Prohibitions

Section 4 Information for Participants Only

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

Section 4.1 For Sale Signs

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

Section 4.2 Sold Signs

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

Section 4.3 Solicitation of Listing Filed with the Service

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

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

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

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

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

Section 4.4 Use of the Terms MLS and Multiple Listing Service

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

Section 4.5 Representation of Services

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. *(Amended 11/21)* **M**

Division of Commissions

Section 5 Compensation Specified on Each Listing

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

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

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

1. by showing a percentage of the gross selling price

2. by showing a definite dollar amount *(Amended 5/10)*

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

While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define “seller concessions” for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of “seller concessions” is suggested but not required for adoption:

Points paid by seller on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. *(Adopted 05/12)*

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

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. *(Amended 5/10)*

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

Note 2: The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. *(Amended 4/92)*

Note 3: The multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

Note 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. *(Amended 5/10)*

Note 5: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. *(Adopted 11/05)*

Note 6: Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they 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. *(Amended 5/09)* **M**

Section 5.0.1 Disclosing Potential Short Sales **M**

When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. *(Adopted 5/09)*

Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within hours of receipt of notification from the lender. *(Adopted 5/10)*

Section 5.1 Participant as Principal

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

Section 5.2 Participant as Purchaser

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

Section 5.3 Dual or Variable Rate Commission Arrangements

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

- Examples of dual or variable rate commission:

Example #1: Broker lists property with variable rate Listing Contract, such as for an in-house transaction:

- a. Company A lists property, Company B brings buyer = "X" %
- b. Company A lists property and brings buyer = "X" – 1 %
- c. Company A lists property and seller finds own buyer = "X" – 2 %

Example #2: Variable (sliding scale) rate commission based on price:

Example #2 – property is listed in MLS for \$500,000

- Commission is "Y" % if sales price is \$500,000 or less
- Commission is "Y" – 1% if sales price is between \$500,001 and \$600,000
- Commission is "Y" – 2% if sales price is more than \$600,000

In both examples, compensation details must be disclosed in REALTOR[®] remarks section of the Listing.

The variable rate field is a required field.

Section 5.4 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. (Amended 11/21) **M**

Service Charges

Section 6 Service Fees and Charges

RAM currently has fees, fine and charges in Schedule A.

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that broker participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated.* (Amended 5/18 and 8/18) **M**

Compliance with Rules

Section 7 Compliance with Rules—Authority to Impose Discipline

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

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

Note 1: A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14) **M**

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

Section 7.1 Compliance with Rules

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

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

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

Section 7.2 Applicability of Rules to Users and/or Subscribers

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

Meetings

Section 8 Meetings of MLS Committee

The multiple listing service committee shall meet for the transaction of its business at a time and place to be determined by the committee or at the call of the chairperson. **R**

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. **R**

Section 8.2 Conduct of 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. **R**

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. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee.

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

Section 9.1 Violation of Rules and Regulations See Schedule B

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 multiple listing service 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. *(Amended 11/96)*

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

Section 9.2 Complaints of Unethical Conduct

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

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, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (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 Committee will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the Committee that the use is authorized. Any proof submitted will be considered by the Committee, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee determines that the use of the content was unauthorized, the Committee may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. *(Adopted 5/18)* **M**


Section 9.4 MLS Rules Violations

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules. *(Adopted 5/18)* **M**

Confidentiality of MLS Information

Section 10 Confidentiality of MLS Information

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

Any information provided by RAM to any Participant or subscriber, including without limitation, the MLS Database, any Listing Participant's or subscriber's password to the MLS Database, any printouts of the MLS Database as provided under these Rules and Regulations (collectively "Confidential Information") shall be maintained by Participant and subscriber as confidential and available exclusively for use by the Participant and subscriber as provided in these Rules and Regulations. Participant and Use shall not disclose any Confidential Information pursuant to a court order or as required by law until Participant or subscriber has given RAM ten (10) days prior written notice and an opportunity to oppose such disclosure. Notwithstanding the foregoing, Participant and subscriber may disclose Listings on the ordinary course of Participant's and subscriber's business as a real estate professional and in accordance with these Rules and Regulations. Participant shall cause all subscribers associated with Participant to comply with the terms of this  Section.

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. **R**

Ownership of MLS Compilation* and Copyright

Section 11

By the act of submitting any property listing content to the MLS, the participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property. *(Amended 5/18)* **M**

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. *(Adopted 5/18)* **M**

Note: The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as participants and subscribers hosting an IDX display.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
2. Develop and post a DMCA-compliant website policy that addresses repeat offenders.
3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
4. Have no actual knowledge of any complained-of infringing activity.
5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP’s copyright infringement liability. For more information see 17 U.S.C. §512. *(Adopted 11/15)* **I**

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

Section 11.1

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

Section 11.2 Display

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

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

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

Use of Copyrighted MLS Compilation

Section 12 Distribution

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

Section 12.1 Display

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

Section 12.2 Reproduction

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

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

Reproductions made in accordance with this section shall be printed in such a fashion that the listing for properties other than that in which the potential buyer has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, do 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 valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. *(Amended 05/14)* **M**

Use of MLS Information

Section 13 Limitations on Use of MLS Information

Use of information from MLS compilation of current listing information, from the association's statistical report, or from any sold or comparable report of the association or MLS for public mass-media advertising by an MLS participant or in other public representations, may not be prohibited.

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 RAM's MLS for the period (date) through (date). *(Amended 11/93)*

M

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 vote of the members of the multiple listing service committee, subject to approval by the board of directors of the association of REALTORS®.

Note: Some associations may prefer to change the rules and regulations by a vote of the participants, subject to approval by the board of directors of the association of REALTORS®. **M**

Nothing in these Rules and Regulations shall diminish the Participant's ultimate responsibility for ensuring compliance with the Rules and Regulations by all individuals affiliated with the Participant, including all Users.

Arbitration of Disputes

Section 15 Arbitration of Disputes

Not applicable to RAM – only for Associations open to non-member participants.

Section 16

Not applicable to RAM – only for Associations open to non-member participants.

Orientation

Section 17 Orientation

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

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

Internet Data Exchange (IDX)

Section 18 IDX Defined

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

Section 18.1 Authorization

Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants.* **M**

Section 18.2 Participation

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

Section 18.2.1

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 05/12)* **M**

Section 18.2.2

MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. *(Amended 05/12)* **M**

Section 18.2.3

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. *(Amended 05/17)* **M**

*Even where participants have given blanket authority for other participants to display their listings through IDX, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. *(Amended 05/17)*

Section 18.2.4

Participants may select the listings they choose to display through IDX 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), , type of listing (e.g., exclusive right-to-sell or exclusive agency) Selection of listings displayed through IDX must be independently made by each participant. *(Amended 11/21)* **M**

Section 18.2.5

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

Section 18.2.6

Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. *(Amended 05/12)* **M**

Section 18.2.7

Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. *(Amended 05/12)* **M**

Section 18.2.8

Any IDX display controlled by a participant or subscriber that

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

either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Adopted 05/12)* **M**

Section 18.2.9

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Amended 05/12)* **M**

Section 18.2.10

An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. *(Adopted 11/14)* **M**

Section 18.2.11

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

Section 18.2.12

All listings displayed pursuant to IDX shall identify the listing firm and the email or phone number provided by the listing participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.* *(Amended 11/21)* **M**

Section 18.3 Display

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

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

Section 18.3.1

Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., , showing instructions, property security information, etc.) may not be displayed. *(Amended 11/21)* **O**

Section 18.3.1.1

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. *(Amended 05/12)* **O**

Section 18.3.2

Deleted May 2015.

Section 18.3.3

Deleted May 2017; moved to 18.2.12 May 2017.

Section 18.3.4

Not adopted by RAM

Section 18.3.5

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

Section 18.3.6

Deleted November 2006.

Section 18.3.7

All listings displayed pursuant to IDX shall show the MLS as the source of the information.* *(Amended 05/17)* **O**

*Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. *(Amended 5/17)*

Section 18.3.8

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability.* (Amended 05/17) ○

Section 18.3.9

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

Section 18.3.10

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

Section 18.3.11


Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.* (Amended 05/17) ○

Note: An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

Section 18.3.12 – 18.3.16

Not adopted by RAM

Section 18.3.12

Display of expired, and withdrawn listings is prohibited (Amended 05/21) ○ 

Section 18.4 Service Fees and Charges

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

*Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 05/17)

Section 19

Virtual Office Websites (VOWs)

Note: Adoption of Sections 19.1 through 19.14 is mandatory.

Section 19.1 VOW Defined

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

Section 19.2

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

Section 19.3

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
 - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
 - ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.

- iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password. **M**
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password. **M**
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant. **M**
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
 - i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
 - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
 - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
 - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
 - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database **M**
- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click. **M**
- f. The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant. **M**

Section 19.4

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

Section 19.5

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

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

Section 19.6

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet. **M**
- b. A participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision. **M**

Seller Opt-out Form

1. Check one.
 - a. I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.
 - b. I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
2. I understand and acknowledge that if I have selected Option a., consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.

Initials of Seller

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

Section 19.7

- a. Subject to Subsection b., below, a participant's VOW may allow third-parties:
 - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
 - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing. **M**
- b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller. **M**

Section 19.8

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

Section 19.9

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

Section 19.10

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

Section 19.11

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

Section 19.12

A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property. (Amended 11/21) **M**

Section 19.13

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

Section 19.14

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

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

Section 19.15

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

a. expired and withdrawn listings

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

c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency

d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)

e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property

Note: If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15f. must be omitted. (Revised 11/21) **M**

Section 19.16

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

Section 19.17

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

Section 19.18

A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent, and the email or phone number provided by the listing participant in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data. *(Amended 11/21)*

M

Section 19.19

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than ___ current listings and not more than ___ sold listings in response to any inquiry. **O**

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

Section 19.20

A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days. **O**

Note: The number of days passwords remain valid before being changed or reconfirmed must be specified by the MLS in the context of this rule and cannot be shorter than ninety (90) days. Participants may, at their option, require Registrants to reconfirm or change passwords more frequently. **M**

Section 19.21

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

Section 19.22

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

Section 19.23

Not adopted by RAM

Section 19.24

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

Section 19.25

Where a seller affirmatively directs his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within forty-eight (48) hours. **O**

Section 20 Brokerage Back Office Feed

Participants are entitled to use the BBO Data for BBO Use subject to the provisions of this policy:

Section 20.1 BBO Data Defined

"BBO Data" means all real property listing and roster information in the MLS database, including all listings of all participants, but excludes (i) MLS only fields (those fields only visible to MLS staff and the listing participant), and (ii) fields and content to which MLS does not have a sufficient license for BBO use.

Section 20.2 BBO Use Defined

“BBO Use” means use of BBO Data by participant and subscribers affiliated with the participant for the following purposes: (1) Brokerage management systems that only expose BBO Data to participant and subscribers affiliated with participant; (2) Customer relationship management (CRM) and transaction management tools that only expose the BBO Data to participant, subscribers affiliated with participant, and their bona fide clients as established under state law; (3) Agent and brokerage productivity and ranking tools and reports that only exposes BBO Data to participant and subscribers affiliated with participant; (4) Marketplace statistical analysis and reports in conformance with these rules.

Section 20.3 BBO Use by Participant

BBO Use may only be made by participant and subscriber affiliated with participant, except that at the request of a participant, MLS must provide BBO Data to that participant’s designee. The designee may use the BBO Data only to facilitate the BBO Use on behalf of that participant and its affiliated subscribers.

Section 20.4 No Opt Out

There is no option for participants to opt-out their listings from the Brokerage Back Office Feed Use.

Section 21 Participant Valuation Data Use

Section 21.1 Participant Valuation Defined

“Participant Valuation” is Participant’s use and display of portions of MLS listing content, possibly including other data, for an automated valuation model (AVM), broker price opinion (BPO), comparative (or comparable) market analysis (CMA), or similar product or service, provided it can fairly be characterized as a valuation of real property and only to the extent permitted here. Participant Valuation services need not include any human judgment or analysis. As used in this Section 21 of these rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensee, except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability.” References to “Participant Valuation” includes all Participant Valuation whether provided by a Participant, non-principal broker, or sales licensee.

Section 21.2 Valuation Vendor

Valuation Vendor” refers to an entity or person designated by Participant to provide Participant Valuation services to Participant, subject to Participant’s supervision, accountability, and compliance with this policy. No Valuation Vendor has independent participation rights in the MLS or right to use MLS listing content, except in connection with the provisions of Participant Valuation services to Participant. Access by Valuation Vendor to MLS listing content is derivative of the rights of the Participant on whose behalf it provides the Participant Valuation services. Participant may use Valuation Vendor’s technology platform and services to facilitate the fulfillment of Participant Valuations services, subject to and as permitted by state law.

Section 21.3 Provision of Participant Valuation

Participant may provide Participant Valuation services to individuals and entities with whom Participant establishes a broker-customer or broker-client relationship (“Registrants”), if such a relationship is required and defined by state law, including completion of all actions required by state law in connection with providing real estate brokerage services to Registrants. Such actions include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements necessary for performing valuations of real property services. Participant’s Valuation Vendor may facilitate such actions where permitted by state law. Where state law does not require the establishment of a broker-customer or broker-client relationship for providing Participant Valuation services, the transaction must still occur between the Participant and Registrant, but may be facilitated by Participant’s Valuation Vendor.

Section 21.4 Eligible Registrants

Registrants may include Participant’s bona fide clients and customers, financial institutions, mortgage lenders, mortgage bankers, mortgage brokers, mortgage loan servicers, title or mortgage insurers, insurers of payments owed to owners of mortgagebacked securities, government sponsored entities, or such other businesses or institutions having an interest in automated reports on property valuation or market conditions.

Section 21.5 Registration e-mail address

Participant, or Valuation Vendor on behalf of Participant where permitted by state law, must obtain the name of and a valid e-mail address for each Registrant that is an individual and the name of and a valid email address for each authorized user if the Registrant is an entity. Participant must ensure that each Registrant agrees to the following terms of use or substantially similar terms of use. Participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use; Participant may utilize Valuation Vendor's technology platform to facilitate and fulfill these obligations.

Section 21.6 Terms of use

Participant, or Valuation Vendor on behalf of Participant where permitted by state law, must require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms-of-use agreement or other form of written contract that provides at least the following:

- (a) that Registrant acknowledges entering into a lawful consumer-broker relationship with Participant, if such a relationship is required by state law, or that Registrant acknowledges purchasing the Participant Valuation from Participant, if a consumer-broker relationship is not required by state law.
- (b) that all information obtained by Registrant from Participant Valuation is intended only for Registrant's business purposes related to (1) mortgage loan foreclosure or default risk assessment or the review of the quality or accuracy of real estate appraisals or other valuations (2) use in evaluating or engaging in a potential financing or other transaction relating to the subject property, (3) distribution to an actual or potential borrower of funds the repayment of which is secured by a mortgage lien on the subject property, or to the borrower's financial or legal advisors, (4) the purchase or sale of mortgage servicing rights, (5) the purchase or sale of loans, or (6) the purchase, sale, or rental of properties whether property is intended to be used as a residence or for investment and whether the purchaser or seller is an individual or institution.
- (c) except as provided above, that Participant Valuations must not be used for any other purposes, including display on publicly accessible websites, and that Registrant must not resell Participant Valuation and must not copy, redistribute, or retransmit or otherwise use any of the MLS listing content provided in Participant Valuation.
- (d) that Registrant acknowledges, as between the parties, the MLS's ownership of and the validity of the MLS's copyright in the MLS listing content.
- (e) that Registrant authorizes MLS and other Participants or their duly authorized representatives to access and review the form used by Participant for any Participant Valuation for the purposes of verifying compliance with this policy and monitoring use of Participants' listings for Participant Valuation.

To the extent that Registrant breaches the terms of use agreement described in this policy, Participant and Valuation Vendor is liable to the MLS as if Participant or Valuation Vendor had breached the terms of use agreement itself. The agreement may also include such other provisions as may be agreed to between Participant and Registrant.

Section 21.7 Rights limited to Participants

Participant's right to use MLS listing content in any Participant Valuation is subject to the applicable office of Participant being a Participant in the MLS. In other words, an office of Participant that is not a Participant of the MLS, then it may not use MLS listing content in any valuations or real property provided to any third party.

Section 21.8 Standard of care and display

Participant must protect the MLS listing content from misappropriation by employing reasonable efforts to monitor for and prevent scraping or other unauthorized accessing, reproduction, or use of the MLS listing content and Valuations.

Section 21.9 Compliance checking

Participant must make a copy of any type of Participant Valuation sold by Participant available to the MLS for purposes of verifying compliance with this policy. Participant must maintain an audit trail of Participant's delivery to Registrant of all Participant Valuations and make that information available to the MLS if the MLS has reason to believe that any Registrant has caused or permitted a breach of the terms of use (or comparable agreement).

Section 21.10 No disclosure of confidential data

Participants are prohibited from providing to any individual or entity, verbally or by any other delivery mechanism, any MLS listing content classified as confidential by the MLS. Participant and Valuation Vendor must ensure that such confidential information is not disclosed to Registrants or any other third party.

Section 21.11 Display requirements

Participant must cause to be placed on any Participant Valuation, or terms of use, (a) a notice indicating that the MLS listing content displayed on the Participant Valuation is not guaranteed accurate by the MLS or other Participants; (b) a copyright notice display "Copyright 20XX Realtors Association of Maui" or "© 20XX Realtors Association of Maui" or substantially similar. Participant must replace "20XX" with the current year as of January 1 each year.

Section 22 Lockbox Rules And Regulations Definitions

- a. "Association" refers to REALTORS® Association of Maui
- b. Key refers to any physical or electronic key, programmer, or other device (hereinafter referred to as key) by which a lock box can be opened. The key must be non-duplicative. Being non-duplicative means that it cannot be readily copied in the manner that other types of keys ordinarily are. (SentriCard® and SentriSmart™ App)
- c. Key Holder ("Holder" or "Cardholder") is any licensed real estate associate or licensed appraiser and unlicensed assistants under the supervision of a Designated REALTOR®.
- d. Designated REALTOR® ("DR") is any Principal Broker or his/her Broker in Charge or Principal Appraiser in accordance with NAR rules.
- e. User Agreement is the Lockbox User Agreement.
- f. Person means an individual or entity.

Section 23 Lockbox Rules And Regulations Policies

The policies governing the Lockbox and key systems are as follows:

Upon execution by the Cardholder of the Lockbox User Agreement, the Holder agrees to all the terms and conditions of that Agreement. Violation of any of such terms and conditions may constitute grounds for termination of the agreement and deactivation of the key and/or imposition of fines and/or charges under provisions as stated in Section 9. The Association reserves the right to deactivate the key upon any complaint of a violation or potential risk to the safety of the lockbox system at the sole discretion of the Board of Directors. In exercising this right the Board of Directors shall afford such due process as it deems in its discretion fair and feasible in light of the circumstances; and any period of deactivation prior to opportunity of the Cardholder for a hearing shall be kept to the minimum period of time deemed reasonably feasible by the Board of Directors in its discretion.

Section 23.1 Lockbox

The Association will sell Lockboxes to Holders.

- a. The Association will maintain a separate inventory of boxes sold by the Association.

Section 23.2 License to Use

Upon execution of the "User Agreement" Holder will be granted a personal, revocable, non-exclusive and non-transferable license to use the key and Lockbox in connection with the Holder's normal and customary activities while acting as a real estate agent or appraiser on the terms and conditions set forth in the referenced Lockbox User Agreement. Each Association's User Agreement shall require the Holder to comply with these Regional Rules and Regulations.

Section 23.3 Purpose

- a. Holder shall use the key only for the purposes of gaining authorized entry into real property on which a system Lockbox has been installed pursuant to an agreement with the owner(s) of such real property. Use of a key gain entry to a property for any purpose other than the exercise of authority or responsibility derived from the agency, sub-agency, or other legally recognized brokerage relationship granted by the owner in the Listing Contract or offer of cooperation by the Agent, or from an appraisal relationship with the owner or contract buyer, is specifically forbidden.
- b. Utilization of information derived from viewing properties shall not be used or conveyed to anyone for any purpose other than to facilitate the sale or lease of real property.

Section 23.4 Revocation/Refusal of License

Holder's license to use the key for entry into the system shall be revoked or refused immediately upon the happening of any one or more of the following events:

- a. Termination of Holder's affiliation with an eligible DR.
- b. Failure of Holder to comply with any of the terms and conditions set forth herein, including but not limited to, the provisions for security in paragraph 5 below, or the provisions of the Lockbox User Agreement or his/her Association's Bylaws, Code of Ethics, Rules and Regulations, and policies.
- c. The Association may refuse to sell or lease lock box keys, may terminate existing key lease agreements and licenses, and may refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 05/17)
 1. The Association determines that the conviction(s) relates to the real estate
 2. business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts; and
 3. The Association gives the individual an opportunity to provide and the Association must consider mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:
 - the individual's age at the time of the conviction(s);
 - nature and seriousness of the crime;
 - extent and nature of past criminal activity;
 - time elapsed since criminal activity was engaged in;
 - rehabilitative efforts undertaken by the applicant since the conviction(s)
 - facts and circumstances surrounding the conviction(s); and
 - evidence of current fitness to practice real estate (Amended 05/17)
- d. The Association may suspend the right of lockbox key holders to use lock box keys following their arrest and prior to a final determination on any such charge if, in the determination

of the Association, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk. (Amended 05/17)

e. The Association will evaluate individuals uniformly, without making exceptions for any one individual.

Section 23.5 Security of Lockbox Key and Property Key

Upon execution of the Lockbox User Agreement, Holder acknowledges that it is necessary to maintain security of the key and the property key to prevent his/her use by unauthorized persons. Upon execution of the Lockbox User Agreement, Holder agrees:

- a. To keep the key in Holder's possession or in a safe place at all times;
- b. Not to allow Holder's PIN to be attached to the key;
- c. Not to disclose Holder's PIN to any third party;
- d. Not to lend the Lockbox key to any person, or to permit the Lockbox key to be used by any person, for any purpose whatsoever, other than actions which are administrative in nature;
- e. Not to lend the property key to any person, for any purpose whatsoever, or to permit the property key to be used for any purpose by any other person;
- f. Not to use another Holder's key for purposes other than administrative in nature;
- g. Not to duplicate the key or the property key or allow any other person to do so;
- h. Not to assign, transfer or pledge the key or any other rights thereto, except as noted in Paragraph 16.
- i. Not to allow anyone who has been admitted to the property by Holder, to remain in the property after the Holder has left the property without the consent of the property owners.
- j. To return the property key(s) to the Lockbox when leaving the property.
- k. Prior to leaving the property, close and lock any windows or doors opened or unlocked by the Holder or by anyone admitted by the Holder.
- l. In the event there is more than one Lockbox on the property, ensure that the proper property key is returned to the proper box.
- m. One Day Showing Codes, if applicable: These codes are to be disclosed or given ONLY to an agent, a broker or inspector or contractor. Before issuing a code to an agent or broker you must:
 1. Obtain the agent's name, phone number and company name.
 2. Confirm that the agent is in fact a licensed agent with the company before.
 3. You are hereby advised not to leave a code if you are unable to verify the agent's status.
- n. Contractor Codes: These codes are intended to offer convenience to Holders, however, a Holder should, when possible, be present when non-key. User/Holder contractors access the property. These codes are to be disclosed or given ONLY to a contractor after written approval from the seller. Before issuing a code to a contractor you must:
 1. Ensure that it is only to be used for work activities such as home inspections; termite inspections; repairmen in vacant properties, and appraisers without a key.
 2. In the event the property is occupied you must coordinate with the owner or the tenant in advance.
 3. Ensure that the contractor you are providing the code for is one that you know and are familiar with and has been approved by the seller or seller's agent.
 4. In the event a cooperating agent is a non-key holder and requests access to the property for a contractor pursuant to the contract, the cooperating agent must obtain permission from the Seller.
- o. A mobile device (such as a smart phone, tablet, fob, etc.) can transmit a key to access a lockbox using standard protocols, including Bluetooth, ZigBee, infrared technology, and others. The applications and software used by mobile devices must contain security controls to allow only authorized user access to the lockbox.
- p. To follow all additional security procedures as specified by the Association, which may be amended, from time to time.

Section 23.6 Security Protocols

Keys must be obtained from the original manufacturer, from a recognized vendor of lockbox systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, the Association must obtain sufficient information from the original manufacturer and surrounding associations and MLSs in order to determine whether the key's pattern, code, or configuration is already in use.

Electronic lockboxes and electronic keys running on mobile devices must incorporate security protocols to prevent the following types of cyber-attacks:

- a. Where an unauthorized user can override or escalate their security credentials
- b. Where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access
- c. Forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user
- d. Digitally signed updates to electronic keys running on mobile devices or electronic lockbox firmware plus a secured update process to prevent unauthorized software from being introduced into the lockbox system
- e. Transmission(s) of frequencies to deceive the lockbox electronics into opening

Section 23.7 Lost Or Stolen Key

- a. In the event a key is lost, stolen, or otherwise unaccounted for, Holder shall notify his/her Association within forty-eight (48) hours, by telephone and in writing. The Holder shall promptly report any such theft to the appropriate law enforcement agency.
- b. If the key is lost or stolen, the Holder agrees that the key will immediately be deactivated by the Association.

Section 23.8 Audit/Inspection

- a. The Association reserves the right to conduct an audit of all Keys at its discretion.
- b. Holders shall submit the key for inspection within a reasonable time at the Association's office after receipt of a written notice.
- c. The key shall be deemed unaccounted for if the Holder does not demonstrate that the key is within Holder's physical control and Holder shall be subject to appropriate fines and/or penalties and deactivation of the key.

Section 23.9 Failure To Comply And Violation

Any failure to comply with any of the terms herein or of the User Agreement or the Bylaws, Rules and Regulations and polices of the Association shall constitute an event of default.

- a. Upon the occurrence of any such event of default, the User Agreement may be terminated in accordance with these Rules and Regulations by the association party to such User Agreement.
- b. Holder shall be subject to loss of access to the system, fines, and other penalties as determined by the Bylaws, rules and regulations, and policies of his/her Association.
- c. If the alleged default is an alleged violation of the Security Provisions contained in Section 21.5 of these Rules and Regulations it will be processed according to the ethics enforcement procedures of the NAR Code of Ethics and Arbitration Manual. The complaint will be reviewed by the Holder's association's Grievance Committee and either dismissed or forwarded to Professional Standards for a Hearing.
- d. If a violation of these Rules and Regulations is determined by a Hearing Panel (which shall be of Holder's association) sanctions are imposed as listed in Section 21.10 of these Rules and Regulations.
- e. If the alleged default involves an alleged violation of the Code of Ethics and Standards of Practice of the National Association of REALTORS® the sanctions for any ethics violations will be determined by a Hearing Panel of Holder's association in accordance with the procedures of the NAR Code of Ethics and Arbitration Manual.
- f. If the alleged default involves an arbitration claim the Arbitration Hearing will be held first in a separate Hearing by a different Hearing Panel (which shall be of Holder's association) from the Arbitration Committee and processed according to arbitration procedures of the NAR Code of Ethics and Arbitration Manual.

- g. Failure to comply with all key procedures may result in the deactivation of the key. The Association will not be obligated to re-activate a key unless and until holder again becomes authorized to utilize the System.
- h. Failure to pay appropriate Association dues and fees will result in deactivation of the key. A reactivation fee may be charged.

Section 23.10 Fines And Penalties

In the event a complaint is forwarded to a Professional Standards Hearing and the Hearing Panel (which shall be of Holder's association) determines that a member is in violation of any Article of this Associations Bylaws, Rules and Regulations and Code of Ethics, the following sanctions may be imposed against the member.

- a. First Offense: The Holder will be assessed a fine of no more than \$1,000 per offense. If the fine is not paid within ten (10) days after the receipt of the final action, the Association will de-activate the Holder's key until the fine is received by the Association. Upon receipt of the fine, the Association will re-activate the Holder's key.
- b. Second Offense: The Holder will be assessed a fine of no more than \$5,000 and will receive a 30-day deactivation of his/her key privileges. If after 30 days following the deactivation date of the key, the Holder has not paid the fine, the Holder's key will remain deactivated until the fine is paid.
- c. Third Offense: The Association shall permanently terminate the key subscription.
- d. All Regional Participating Associations will be notified of all violations.

Section 23.11 Designated REALTORS® And Holder's Responsibilities

For as long as Holder shall have an activated key, the Designated REALTOR® shall maintain supervisory authority over Holder. Holder shall be actively engaged in the real estate profession as defined by the National Association of REALTORS®.

- a. Designated REALTOR® and Holder shall maintain current Hawaii real estate licenses or appraiser's licenses in the jurisdiction where they are using the Lockbox and key systems.
- b. By executing the User Agreement, Holder agrees that Holders are liable for all duties, responsibilities, and obligations consistent with use of the key.
- c. A Designated REALTOR® principal or an office's broker of record may purchase additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonable available from the Association. When a programmer is issued on a temporary basis,

It shall be the responsibility of the REALTOR® principal or the broker of record to advise the Association in writing that the programmer or keypad has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the REALTOR® principal or broker of record to advise the Association in writing within two (2) business days after possession of the previously issued programmer or keypad has been reassumed.

- d. Holder shall promptly notify his/her Association should they cease to hold a valid license.
- e. Holder must comply with all these Rules and Regulations.
- f. Holder must keep his/her Association advised in writing of the current address at all times. Address changes must be reported to his/her Association within forty-eight (48) hours.

Section 23.12 Requirement Of Identification

Should Holder need to obtain Holder's PIN number, his/her Association shall require Holder to appear personally at the Association's office or produce appropriate identification as identified in the User Agreement.

- a. Appropriate identification shall consist of a valid Driver's License or in the absence thereof a valid picture ID and Holder's Real Estate License.
- b. The Association shall maintain an accurate accounting of all information disseminated under this provision. Should a Holder need to obtain a shackle code for Holder Lockbox, Holder or DR may do so by calling his/her Association and giving Holder's key PIN to the staff. (DR's shall not be required to provide the PIN code). Staff may then release the shackle code via telephone. Staff may only release shackle codes for Lockboxes owned by the caller or the DR of the owners. Since PINs are confidential, the Association will assume no responsibility for lost or stolen Lockboxes or their contents since the owner of their Lockboxes would have revealed the PIN to someone else in order for staff to have given out the shackle code.

Section 23.13 Action To Enforce

Any action for the enforcement of these Rules and Regulations or of the User Agreement may be made in the name of the member's Association, in any court holding jurisdiction over the geographic location of the Association's business address, and shall include payment of collection fees and attorney's fees by Holder.

Section 23.14 Authorization

- a. Lockboxes may not be placed on a property without written authority from the seller. This authority may be established in the Listing Contract or any other written document. Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property.
- b. Holder shall be obligated to supply his/her Association with a copy of the written authorization, should the Association request a copy.

Section 23.15 Repurchase/Resale Of Lockboxes

Lockboxes may be sold or transferred between Cardholders, subject to Section 21.10.

Section 23.16 Holder's Termination Of The User Agreement

Upon written notice to his/her Association, Holder may terminate the User Agreement at any time. Reporting of a key lost, stolen, or otherwise unaccounted for shall not be construed as Notice of Termination.

Section 23.17 Proper Use Of Lockbox System

- a. Keys and Lockboxes may be used on properties listed with Designated REALTORS® and must be used on the property when so indicated on the published listing.
- b. Lockboxes are normally programmed to exclude entry between 8:00 pm and 8:00 am HST. Properties listed in MLS that are programmed for 24 hours entry should have "24 HR" as the leading entry in line one of the remarks in the MLS system.
- c. Lockboxes that have been programmed for CBS (Call Before Showing) should be so indicated in the MLS. In no case shall CBS codes be published or distributed. CBS codes are confidential and should only be provided on a case by case basis according to the needs of the specific transaction.
- d. Lockboxes that have been programmed for restricted hours should be so indicated in one of the remarks sections of the MLS.
- e. One Day Showing Codes, if applicable: The use of one day showing codes are governed by Section 21.5 (m) herein.
- f. When leaving a property it is the responsibility of the Holder to ensure that the property key is replaced in the lockbox and that the lockbox is properly closed. If a lockbox is found not properly closed, the Holder should contact the Listing Broker immediately. The listing Broker/Agent should read the lockbox. The last

person found to have entered the property (provided this was not the agent to report the violation) will be held responsible.

- g. Care should be taken when entering a property by use of a key. The property should be left in the same condition in which it was found. Should an agent find a property left in an unsatisfactory condition it should be reported to the Listing Broker immediately.
- h. Lockboxes shall be removed within 48 hours of close of escrow.

Section 23.18 Allocation Of Keys

The Association will not issue more than one Key per Holder.

Section 23.19 Various Fees

The Associations reserve the right to invoke a variety of fees and/or price schedule and may, at their respective discretion, alter these fees and prices as each association sees fit on an individual Association basis.

- Hardware Costs: Lockbox and Keys
- Maintenance Fees: Annual maintenance Fees for keys
- Warranty Fees: For Lockboxes and keys
- Administrative Fees: For lost/stolen keys, return or replacement key
- Late Fees: For late payment of any of the above fees
- Reactivation Fee: For reactivating a terminated key

Section 23.20 Miscellaneous

If any provision of the Lockbox User Agreement or these Rules and Regulations shall be held to be invalid, illegal, or unenforceable, such holdings shall not affect the validity, legality or enforceability of the remaining provisions. These Rules and Regulations shall include any and all amendments thereto which may be adopted from time to time by written consent of all participating associations. No association shall adopt any Bylaws provision, or any other rule or regulation or policies, any of which are in conflict with these Rules and Regulations, without the written consent of all associations.

Schedule A: Service Fees, Fines, and Charges

All fees, fines and charges are subject to GE tax

Item	MLS Section	Fees, Fines, & Charges
Missed deadline to enter New Listing or Status changes, including Office Exclusive Listing	1.3 Exempt Listings 1.4 Change of Status of Listing	3-5 days \$75. 6-10 days \$150. 10+ days \$250.
Input listing without Written Listing Contract	1 Listing Procedures	\$500 fine and possible MLS Hearing.
Advertising of Unlisted Property or Failure to comply with Clear Cooperation	2.7c Advertising of an Unlisted Property 1.01 Clear Cooperation	\$500 fine or \$250 with MLS Class- first offense \$1,000 fine - second offense \$1,500 fine - subsequent offenses and possible Professional Standards Hearing
Input listing without seller having legal title to the property / BD)	11	\$500 fine per offense. RAM staff will remove listing from MLS.
Failure to report sale of unlisted property	2.5 Reporting Sales to the Service	\$500 fine and possible MLS Hearing.
Input of Duplicate Listing -15 / BD)	1.1.1a Duplicate Listings are Prohibited in MLS	\$100 for first offense; \$250 for second offense; each offense thereafter will double.
Incorrect/Insufficient Data in required fields	1.2 Detail on Listings Filed with MLS	\$25 per day if not corrected within 2 business days of notification (starting on day 3).
Incorrect Map Dots	1.2 Detail on Listings Filed with MLS	\$25 per day if not corrected within 2 business days of notification (starting on day 3).

Promotional Info in public remarks	2.7a Advertising of Listings	\$25 fine first offense, doubling for each offense (i.e., \$50, \$100, \$200, etc.) within 1 year (365 days) of previous offense by same agent. RAM staff will edit for compliance. (08-28-15/BD)
Displaying more info (contact, link, etc.) than allowed in virtual tours	2.7b Advertising of Listings	\$100 first offense, doubling for each offense (i.e., \$200, \$400, \$800, etc.) (08-28-15/BD)
Failure to input at least one photo/image of Subject Property (or view from Subject Property)	1.2 Detail on Listing Filed with MLS	\$25 per day.

Schedule A: Service Fees, Fines, and Charges

Item	Fees, Fines, & Charges
<p><u>Data Input by RAM Staff</u> <u>(Broker Load Listings are free)</u></p>	
RAM MLS Member	\$25
Non-RAM MLS Member (reciprocal listings)	\$50 (includes change orders)
Copy/Clone existing listing	\$10
Process MLS Change Orders (for MLS subscribers)	\$5 (01-15 / BD)
<p><u>Photo Input</u></p>	
Scan Photo (first photo free; each additional photo)	\$5
Digital (first photo free; each additional photo)	\$2
<p><u>WebSearch (for RAM MLS participants/subscribers)</u></p> <p>Go to: www.RAMaui.com > RAM Information > MLS Data Feeds</p>	

Schedule A: Service Fees, Fines, and Charges

Item	Fees, Fines, & Charges
<p><u>Data Input by RAM Staff</u> <u>(Broker Load Listings are free)</u></p>	
RAM MLS Member	\$25
Non-RAM MLS Member (reciprocal listings)	\$50 (includes change orders)
Copy/Clone existing listing	\$10
Process MLS Change Orders (for MLS subscribers)	\$5 (01-15 / BD)
<p><u>Photo Input</u></p>	
Scan Photo (first photo free; each additional photo)	\$5
Digital (first photo free; each additional photo)	\$2
<p><u>WebSearch (for RAM MLS Participants/subscribers)</u></p> <p>Go to: https://www.ramaui.com/membership/mls-data-feeds/</p>	

Schedule A: Service Fees, Fines, and Charges (continued):

If you want your office to join the REALTORS® Association of Maui (RAM):

Item	Fee
<u>RAM Office Setup Fees</u>	
New	\$200
Reactivating	\$50

If you ARE a member of RAM & want to JOIN MLS:

Item	Fee
<u>MLS Office Setup Fees</u>	
New	\$200
Reactivating within 180 days	\$50
Reactivating after 180 days of placing office inactive	\$200
<u>MLS Participant/Subscriber Fees (per member)</u>	
Monthly	\$40
Annually	\$480

If you ARE NOT a member of RAM & want to JOIN RAM'S MLS ONLY:

Item	Fee
<u>MLS Office Setup Fees</u>	
New	
Reactivating within 180 days	\$320
Reactivating after 180 days of placing office inactive	\$160
	\$320
<u>MLS Participant/Subscriber Fees (per member)</u>	
Monthly	\$60
Annually	\$720

EXHIBIT B



MLS FINE WAIVER REQUEST

If you feel that the MLS fine has been issued in error, you can request a waiver of your fine by the MLS Committee. Only the Broker (not the agent) can request a waiver. Please note that the fine must be paid on time (within 30 days of date of invoice) to avoid any MLS suspensions. If the MLS Committee grants your waiver request, the fine will be refunded.

MLS #: _____

Type of Fine:

Fine Amount: _____

Explanation/Reason why the fine should be waived:

I understand that the waiver of fine will be considered and reviewed at the next meeting of the MLS Committee.

Their decision will be sent to me within five (5) days of their next meeting.

Name of Listing Agent: _____

Member #: _____

Name of Broker-In-Charge/Designated Realtor: _____

Member #: _____

Signature of Broker-In-Charge/Designated Realtor

Date Submitted: _____



441 Ala Makani Street ~ Kahului, Maui, HI 96732-3507

Phone: 808-873-8585

Email: betterdata@RAMaui.com ~ www.RAMaui.com

PROCEDURE FOR MLS HEARING

(please read thoroughly)

The guidelines in this document are from the Code of Ethics and Arbitration Manual of the National Association of REALTORS® and have been compiled to give an overview of the process when requesting an MLS Hearing.

A request for an MLS Hearing may be filed when a member disputes an MLS fine. A request for MLS Hearing must be filed within twenty (20) days of the MLS Committee's decision on the fine waiver request. The hearing request must come from the MLS Participant (aka. Designated Realtor) and the MLS subscriber (aka. Agent) if applicable.

Communications pertaining to the request are via email. Recipients are required to confirm receipt of RAM's email communications and any applicable attachments.

1. **REQUEST FOR MLS HEARING FORM.** The requestor must complete the form (refer to form for requirements and restrictions) and email it to betterdata@ram Maui.com. The requestor must include a statement that gives an overview of the situation in chronological order, and include all pertinent, supporting documents. The requestor should be thorough – this is the opportunity to state his or her case.

When submitting your Request for MLS Hearing Form and supporting documents, please do not send them as individual attachments. Rather, scan all documents together and email just one attachment to betterdata@RAMaui.com.

2. **MLS HEARING IS SCHEDULED.** The date for hearing will be set and all parties will be notified of the date and place of hearing at least twenty-one (21) days in advance of the scheduled hearing date.

3. CONFIDENTIALITY. The parties shall not discuss the case with any member of a hearing panel or the Board of Directors of RAM prior to the hearing, or after the hearing and prior to or after the announcement of the decision. The allegations, findings, and decisions rendered are confidential and should not be reported or published by the Association, any member of a tribunal, or any requestor under any circumstances except those established in the Code of Ethics and Arbitration Manual of the National Association as from time-to-time amended.
4. SELECTION OF HEARING PANEL. The hearing panel consists of at least three (3), and not more than five (5), panel members of the Professional Standards Committee, and may have one (1) alternate panel member. The parties will receive a list of the potential panel members prior to the hearing and have the right to challenge any of the individuals. No more than one person licensed with any firm, partnership, or corporation may serve on the same tribunal. A person shall automatically be disqualified as a member of a tribunal (hearing panel or Board of Directors) in any ethics case in which the person is:
 - a. related by blood or marriage to either complainant, respondent, or a REALTOR® acting as a counsel for either the complainant or respondent;
 - b. is an employer, partner, or employee, or in any way associated in business with either complainant, respondent, or a REALTOR® acting as counsel for the complainant or respondent;
 - c. a requestor to the hearing, or a requestor or witness in any pending case involving a requestor to the hearing;
 - d. objected to by a requestor due to factors that would prevent a tribunal member from rendering an impartial, unbiased and knowledgeable decision. If the reason is deemed sufficient to support your challenge, the individual challenged will not be appointed to the panel.
5. REQUEST WITHDRAWN. The requestor may withdraw their request at any time prior to the start of an MLS hearing.
6. REQUESTOR'S ATTENDANCE AT HEARING. In the event that the requestor fails to appear at a duly noticed hearing without first obtaining a continuance or adjournment, or who refuses or is unable to attend the hearing, the hearing panel may proceed with the hearing in the requestor's absence and shall reach its decision based on the evidence made available at the hearing.
7. RIGHT OF COUNSEL TO APPEAR. The requestor may be represented by legal counsel or by a REALTOR® of their choosing (or both). The role of counsel (whether legal or REALTOR®) includes the making of opening and closing statements on behalf of the requestor represented, the requestor's claim/defense, the cross-examination of the other requestor and the other requestor's witnesses, and introducing affidavits, documents, and other admissible relevant evidence. The role of counsel does not include testifying as a witness unless the panel determines such testimony is essential to ensure due process. Attorneys may speak on behalf of a requestor, but the panel still has the right to question a requestor directly. REALTORS® providing such representation are cautioned to avoid the unauthorized practice of law.

A requestor who intends to be represented by counsel must provide the Association with the name of counsel at least fifteen (15) days prior to the hearing.

8. WITNESSES. The requestor may have witnesses present at the hearing, and the tribunal may summon its own witnesses. All witnesses, except those who are also parties, will be excused from

the hearing after completion of their testimony and cross-examination unless otherwise provided for in the *Code of Ethics and Arbitration Manual*. All parties appearing at the hearing may be called as witnesses without advance notice. A requestor who intends to call additional witnesses at the hearing must provide the Association with the names of these witnesses at least fifteen (15) days prior to the hearing. Failure to provide this information within the time specified may constitute a waiver of the right to call those witnesses at the hearing.

The requestor is responsible for the expenses of expert witnesses he or she calls.

9. CONDUCT OF HEARING. At the hearing, the requestor has the right to present any witnesses, to submit any evidence pertinent to the case, and to cross-examine witnesses. The requestor will be given ample opportunity to state their case, uninterrupted and may present a closing statement. The hearing panel has the right to interrupt at any time to clarify a point.

The requestor shall, with diligence, present to the panelists in writing such statements and proof which they deem necessary to support their positions. Proof may be submitted in the form of affidavits or otherwise. The hearing panel may require that statements be verified by affidavits or that accuracy or authenticity of any documents or other papers submitted be verified by affidavit. At the hearing, the panelists shall receive any further written statements, documents, or other papers, shall hear oral testimony and determine what personal appearances shall be made, and shall regulate the holding of hearings. The hearing panel may receive and consider any evidence they deem material and proper, including evidence of experts (requestor should be aware that evidence submitted at the hearing may not be accepted into evidence by the hearing panel). It is recommended that all documents be presented prior to the hearing so that all participants have adequate time to review said documents.

10. TRANSMITTING DEVICES. Cell phones, two-way radios and other transmitting devices may not be operated during MLS hearings absent specific, advance authorization from the panel chair.
11. "REMOTE" TESTIMONY. The policies and procedures established in the National Association's Code of Ethics and Arbitration Manual contemplate that the requestor and their witnesses will participate in MLS hearings in the physical presence of hearing panels. Requestors and their witnesses may request permission to participate in such proceedings via teleconference or videoconference.

The requestor may be permitted to participate in those hearings by teleconference or videoconference at the discretion of the hearing panel chair. Witnesses may only participate remotely for their own testimony.

Hearing panels, association staff, or association counsel should employ steps to verify the identity of "remote" participants, to preclude unauthorized individuals from being in the presence of the "remote" participant, and to employ appropriate safeguards to ensure confidentiality of the proceedings. The costs of "remote" testimony shall be the responsibility of the requestor requesting the opportunity to participate or offer testimony by teleconference or videoconference.

12. BURDENS AND STANDARDS OF PROOF IN MLS HEARING. "Clear, strong, and convincing" shall be the standard of proof by which alleged violations of all membership duties are determined. Clear, strong, and convincing shall be defined as that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.

13. RECORDING THE HEARING. All hearings are recorded by RAM; and are considered the official record of the proceeding; however, recordings may not be used by the requestor for anything other than an appeal (Associations shall prohibit parties from recording appeals or limited procedural review proceedings). Any requestor to a hearing has the right to obtain a copy of the Association's official recording (prior to the appeal deadline) subject to payment of the Association's duplication costs, and any duplication will be conducted under the supervision of the Association. Case recordings are destroyed after the appeal period has expired.

14. DECISION OF THE HEARING PANEL. The Decision of the hearing panel shall be by a simple majority vote and in writing. The Decision shall be filed with RAM after the hearing panel's decision is final. The hearing panel's Decision shall be considered final only when it is in writing and signed by members of the panel following their personal review and review by legal counsel. RAM shall transmit a copy of the decision to the requestor within five (5) business days after receiving the hearing panel's decision in writing, except that reasonable delay shall not invalidate the Association's procedures nor the decision.

15. FILING AN APPEAL. Within ten (10) days after the hearing panel's final decision has been transmitted, the requestor may file an appeal with RAM for a hearing before the Directors (or a panel thereof). The requestor may appeal based only on alleged procedural deficiencies or other lack of procedural due process that may have deprived the requestor of the opportunity for a full and fair hearing.

All appeals must be in writing and must be accompanied by a deposit of \$400. The appeal should clearly indicate the basis on which the hearing panel's Decision is being challenged.

16. DOCUMENT RETENTION. Case documents are destroyed after the date when any sanction imposed has been completed (absent a threat of litigation).

These guidelines are to assist you in understanding the process that is followed by the REALTORS® Association of Maui when an ethics complaint is filed. If you have any questions, please call the MLS Team at 808-873-8585. (This synopsis is consistent with the policies of the National Association of REALTORS®)
