

New Smyrna Beach Board of REALTORS®  
Rules and Regulations  
Multiple Listing Service

**LISTING PROCEDURES**

**Section 1. LISTING PROCEDURES:** Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, located within the territorial jurisdiction of the Board of REALTORS® taken by Participants on exclusive right to sell and exclusive agency forms shall be delivered to the Multiple Listing Service within three (3) business days (excepting weekends, holidays and postal holidays) after all necessary signatures of seller(s) have obtained:

- (a) Single-family detached homes for sale or exchange.
- (b) Condominiums, Cooperatives, Townhomes, CondoTels, or a single unit of \_\_ plex for sale or exchange.
- (c) Modular, Manufactured and Mobile homes with real estate for sale or exchange.
- (d) Vacant land for sale or exchange.
- (e) Residential Income Property – Multi-family - (two through four units)
- (f) Commercial and/or Industrial properties for sale or exchange. (Includes Multi-family greater than 4 units)

The following are some of the types of properties that optionally may be filed with the Service, in addition to the types described above which are required to be filed with the Service.

- (g) Business Opportunities with or without land (insertion optional)
- (h) Commercial or Residential Property For Rent or Lease (insertion optional)
- (i) Commercial or Residential Properties to be Auctioned (insertion optional) (*after and if accommodated by MLS System updates*)
- (j) Docks and Dockominiums for Sale – (insertion optional)

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 cooperation and compensation to the other Participants of the Multiple Listing Service acting as the agent or as the legally recognized non-agency representative of the buyer

The different types of listing agreements to be accepted include:

- (a) Exclusive right to sell
- (b) Exclusive agency Right to sell
- (c) Exclusive Right to Lease
- (d) Exclusive Agency Right to Lease

A legitimate offer of compensation as further defined in Section 5 is a mandatory condition for MLS Listing entry. A special category of data entry is provided for recording “selling side only” transactions for comparative purposes, and no listing side credit is given. Entering a false listing to get credit when there was no legitimate listing and no legitimate offer of compensation is a fineable violation of these Rules. Continued violations may result in suspension from the MLS.

The Listing agreement must include the Seller's or Landlord's authorization to submit the agreement to the Multiple Listing Service.

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

The exclusive agency listing also authorizes the listing broker, as exclusive agent or as the legally recognized non-agency representative to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive

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right to sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations.

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.

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

The Multiple Listing Service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the Service, although a "Property data form" may be required as approved by the Multiple Listing Service. However, the Multiple Listing Service, through its legal counsel:

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

Any Remarks indicating 1) Commissions, or 2) 3rd Party Approval of Commissions, or 3) any Bonus or any other incentive to a Selling Agent, shall be confined to the Realtor Remarks section and shall not be placed in the Marketing Remarks section. - \$25 minimum fine.

Any Remarks indicating the presence of a lockbox or indicating that any improved property is vacant or unoccupied shall be confined to the Realtor Remarks section and shall not be placed in the marketing remarks section. - \$25 minimum fine.

Any listing Remarks indicating false or misleading information for the purpose of offering for sale or for the purpose of causing or inducing any other person to purchase, lease, or rent real estate, or to acquire an interest in the title thereto, is prohibited - \$500 minimum fine

**Section 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) or, in the case of Properties for rent or lease, upon signature of the Landlord(s).

**Section 1.2 DETAIL ON LISTINGS FILED WITH THE SERVICE:** A listing Agreement or Property Data form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the Property Data Form. A property shall not be listed in the MLS more than once in a particular Property Type category. (cannot be listed as both a 3 bedroom and a 4 bedroom, for example)

**Section 1.2.1 LIMITED SERVICES LISTINGS:** listing agreements under which the listing broker will not provide one, or more of the following services:

- a. Arrange appointments for cooperating brokers to show listed property to potential purchasers but instead give 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;

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

Limited Services Listings must be identified or flagged in the MLS compilation of data. This will be accomplished by the Participant selecting "Yes" for "Limited Services" on the data input sheet and placing the wording "Limited Services Listings" in the "FOR REALTORS® EYES ONLY" MLS listing input field, so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**Section 1.2.2 MLS Entry-Only Listings**

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

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

MLS Entry-Only Listings must be identified or flagged in the MLS compilation of data. This will be accomplished by the Participant selecting "Yes" for "No Service" on the data input sheet and placing the wording "No Services Provided" in the "FOR REALTORS® EYES ONLY" MLS listing input field, so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**Section 1.3 EXEMPTED LISTINGS:** If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing ("office exclusive") and such listing shall be filed with the service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service.

**Section 1.4 CHANGE OF STATUS OF LISTING:** any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service within three (3) business days, (excepting weekends, holidays and postal holidays) after the authorized change is received by the listing broker.

**Section 1.5 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the Service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

**Section 1.6 CONTINGENCIES APPLICABLE TO LISTINGS:** Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants.

**Section 1.6.1 CONTRACT CONTINGENCY WITH "72 HOUR KICK-OUT" CLAUSE:** Listing meeting specified criteria may remain in the MLS Active Status by Selecting "Back-ups Requested" and "Confirming" on

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the data input sheet and inserting (auto-populated by MLS system) the following statement beginning in the **Remarks** field: “CONTINGENCY with KICK-OUT”. This applies only to contracts containing a not-to-exceed “72 hour kick-out clause for contingency on Buyer’s **sale of existing Property – NOT FOR ANY OTHER CONTINGENCIES**. Seller must continue to show the Property and agree to accept back-up offers.

This example of the required clause is from the FAR/BAR Comprehensive Rider FBCR-7 “KICK OUT CLAUSE – “Seller will have the right to continue to show the Property and solicit and enter into bona fide back-up purchase contracts with third parties that are subject to the termination of this primary Contract. Upon entering into a back-up contract, Seller will notify Buyer in writing of the back-up contract. To continue with this primary Contract, Buyer must make an additional deposit of \$ \_\_\_\_\_ to Escrow Agent, within 3 days from receipt of the written notice. By giving the additional deposit to Escrow Agent within 3 days, Buyer waives all contingencies for financing and sale of Buyer's property and the parties will close on Closing Date. The additional deposit will be credited to Buyer at Closing. If Buyer fails to timely make the additional deposit, this primary Contract will terminate and Buyer's deposit will be refunded.”

**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. Listing cannot be predicated on purchase contingencies without their inclusive price in the MLS listing price.

**Section 1.8 LISTING MULTIPLE UNIT PROPERTIES:** All properties, which are to be or may be sold separately, must be listed individually. Should part of a listed property be sold, the remainder of the property should be resubmitted on a new property data form to the Service.

**Section 1.9 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

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

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

**Section 1.11 TERMINATION DATE ON LISTINGS:** Listings filed with the Service shall bear a definite and final termination date, as negotiated between the listing broker and the seller.

**Section 1.12 JURISDICTION:** Only listings of the designated types of property located within the jurisdiction of the New Smyrna Beach Board of REALTORS®, Inc. are required to be submitted to the service. Listings of property located outside the Board’s jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

**Section 1.13 LISTINGS OF SUSPENDED PARTICIPANTS:** When a Participant of the Service is suspended from the MLS for failure to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant’s option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, a Board MLS is not obligated to provide MLS

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services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of suspended Participant's listings from the MLS, the suspended Participant should be advised in writing of the intended removal so that the suspended Participant may advise his clients.

**Section 1.14 LISTINGS OF EXPELLED PARTICIPANTS:** When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS shall, at the expelled Participants 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 Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, a Board 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 expelled Participant's listings from the MLS, the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his clients.

**Section 1.15 LISTINGS OF RESIGNED PARTICIPANTS:** When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised, in writing, of the intended removal so that the resigned Participant may advise his clients.

**SELLING PROCEDURES**

**Section 2. SHOWINGS AND NEGOTIATIONS:** Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker except under the following circumstances:

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

**Section 2.1 PRESENTATIONS OF OFFERS:** The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

**Section 2.2 SUBMISSION OF WRITTEN 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.

**Section 2.3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:** The cooperating broker acting as the Buyer's agent, subagent, or as a legally recognized non-agency representative or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

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**Section 2.4 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFER:** The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

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

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

**Section 2.6 REPORTING RESOLUTIONS OF CONTINGENCIES:** The listing broker shall report to the Multiple Listing Service within (three) 3 business days (excluding weekends, holidays and postal holidays) that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement cancelled.

**Section 2.7 ADVERTISING OF LISTING FILED WITH THE SERVICE:** A listing shall not be advertised by any Participant, other than the listing broker, without the prior consent of the listing broker.

**Section 2.8 REPORTING CANCELLATION OF PENDING SALE:** the listing broker shall report immediately to the Multiple Listing Service the cancellation of any pending sale and the listing shall be reinstated immediately.

**Section 2.9 (not adopted)**

**Section 2.10 Availability of Listed Property**

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

**REFUSAL TO SELL**

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

**PROHIBITIONS**

**Section 4 INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

**Section 4.1 "FOR SALE" SIGNS:** Only the "For Sale" signs of the listing broker may be placed on a property.

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

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**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.

**Section 4.4 AGENT CONTACT INFO:** MLS listings that display agent contact information, other than the MLS Participant or Subscriber, SHALL require that the Participant submit a “Waiver for use of the New Smyrna Beach Multiple Listing Services” for the non-subscriber listed in the MLS listing. Failure to do so, or immediately remove the non-subscriber contact information, SHALL require that the Participant subscribe to - and pay MLS access fees - for ALL Participant office's registered agents in order for Participant to remain an active MLS Participant. Failure to submit the Waiver Request, or pay MLS access fees within 10 days of notification of the violation, SHALL result in the Participant being suspended from the MLS.

The NAR-approved form “Waiver for use of the Association's Multiple Listing Services” is available from the Board office.

**Section 4.5 SECURITY** - No Lockbox Codes, Keybox Codes, Building Access Codes, or other security access information shall be entered into the MLS system. - Violations result in an Automatic Fine.

### **DIVISION OF COMMISSIONS**

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

In filing a property with the Multiple Listing Service of a Board 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

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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.\*

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

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount

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 no agency capacities defined by law) which may be the same or different.

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

Note 1) The Board 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 Board Multiple Listing Service shall not publish the total negotiated commission on a listing, which has been submitted, to the MLS by a Participant. The Board Multiple Listing Service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

Note 2) the listing broker may, from time to time, adjust the compensation offered to other Multiple Listing Service Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised.

Note 3) the Multiple Listing Service shall make no rule on the division of commissions between Participants and nonparticipants. This should remain solely the responsibility of the listing broker.

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

Note 5) nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction.

**Section 5.0.1 Disclosing Potential Short Sales:** Participants must disclose potential short sales when reasonably known to the listing participants. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. The listing can remain active in the MLS as long as the following conditions are met: Realtor eyes only Remarks MUST CONTAIN "Accepting Backup Offers", in addition to the other short sale requirements specified herein.

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Note: 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 must 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 must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers.

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

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

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

**SERVICE FEES AND CHARGES:**

**Section 6** The Multiple Listing Committee, subject to approval by the Board of Directors, shall from time to time prescribe forms, impose fees, formulate procedures and do such other things as are necessary to the proper promotion and conduct of the MLS Service.

a) **Initial Office Participation Fee.** An application for new Office Participation in the MLS Service shall pay an application fee in such amount as set annually by the Board of Directors with such fee to accompany the application. A Participant/Subscriber application will not be processed until the respective office set up fee has been paid. Firms with multiple offices shall pay the application fee for each new office registered.

b) **Administrators and Assistants.** Each Participant shall pay an annual access fee in such amount as set annually by the Board of Directors for each Office Administrator and for each Personal Assistant that require(s) MLS access and who hold active real estate licenses (including those with licenses held by “Referral” Companies)

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One unlicensed administrator Log-In will be provided to each office for listings maintenance at no charge; a charge in such amount as set annually by the Board of Directors applies to any additional unlicensed administrators.

The Alias feature may be requested by the Participant for Licensed or unlicensed Assistants with MLS access. The Alias feature is a MLS System Vendor provision that allows Assistants or Administrators, while signed on to the system under their own credentials, to email or print Customer Displays from the system with an “aliased” Agent’s picture and contact information on the display, rather than the Assistant or Administrator’s own contact information and picture (which is the default when the alias function is not enabled).

Sharing Participant or Subscriber log on information with administrators or assistants and/or avoiding payment of MLS access fees by concealment of or failure to disclose such personnel are violations that will result in fines and/or suspension for the MLS.

c) Initial Member Participation Fee. A NSB Board Member applicant for participation in the MLS Service shall pay an application fee in such amount as set annually by the Board of Directors with such fee to accompany the application. Member Participants and Subscribers that purchase an access to the MLS are granted a single-user license to personally access the MLS system. Violation by sharing log on information with anyone will result in a fine and/or a suspension from the MLS per occurrence.

d) Initial MLS ONLY REALTOR Participation Fee. Applicant for participation in the MLS Service is a single-user and shall pay an application fee in such amount as set annually by the Board of Directors with such fee to accompany the application. MLS ONLY REALTOR Participants and Subscribers that purchase an access to the MLS are granted a single-user license to personally access the MLS system. Violations by sharing log on information with anyone will result in a fine and/or a suspension from the MLS per occurrence.

e) Initial MLS ONLY, NON-REALTOR Participation Fee. Applicant for participation in the Service is a single-user and shall pay an application fee in such amount as set annually by the Board of Directors with such fee to accompany the application. MLS ONLY, NON-REALTOR Participants and Subscribers that purchase an access to the MLS are granted a single-user license to personally access the MLS system. Violation by sharing log on information with anyone will result in a fine and/or a suspension from the MLS per occurrence.

The information, services, and products available to such NON-REALTOR Participants and Subscribers is limited to those categorized as core. Core MLS information, services, and products are essential to the effective functioning of MLS, as defined and include:

- Current listing information
- Information communicating compensation to potential cooperating brokers

Core services include the mechanism (print or electronic or both) by which this information is communicated between Participants and the MLS.

In processing the application of an individual who is entitled by law to MLS participation without Board Membership, the listing information and services shall be promptly provided upon completion of the following:

1. agreement to arbitrate disputes with other Participants:
2. completion of all required MLS orientation concerning MLS bylaws and MLS rules and regulations and computer training related to MLS information entry and retrieval within a reasonable time not to exceed thirty (30) days, and
3. payment of all required initial MLS fees and charges

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f) Recurring NSB Board member Participation Fee. The annual participation fee of each NSB BOARD member Participant shall be in such amount as set annually by the Board of Directors, plus an equivalent amount times each salesperson and licensed or certified appraiser who has access to and use of the Service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. Payment of such Participant and Subscriber fees shall be made on or before the first day of the fiscal year of the Multiple Listing Service. Fees shall be prorated on a monthly basis.

g) Recurring MLS ONLY REALTOR Participation Fee: The annual participation fee of each MLS ONLY REALTOR Participant or Subscriber is in such amount as set annually by the Board of Directors. Payment of such fee shall be made on or before the first day of the fiscal year of the Multiple Listing Service. Fees shall be prorated on a monthly basis.

h) Recurring MLS ONLY NON-REALTOR Participation Fee. The annual participation of each NON-REALTOR Participant or Subscriber is in such amount as set annually by the Board of Directors. Payment of such fees shall be made on or before the first day of the fiscal year of the Multiple Listing Service. Fees shall be prorated on a monthly basis.

**Participant/Subscriber violations of MLS Service Prescribed and applicable fines: See Appendix 1.**

i) Listing Announcements at MLS Meetings. A fine will be imposed if announced listing has not been entered into Participant's/Subscriber's own MLS access or received and entered by the Board Office prior to the announcement.

j) No-Show for Caravan Meeting. If Participant/Subscriber has scheduled a property on a specific caravan date and does not attend, or have a representative attend, the scheduled MLS-Caravan meeting, without calling at least 24 hours in advance to cancel, will be fined. Participant/Subscriber may not schedule any listing on caravan until the fine is paid.

k) No-Show for InnoVia Training. a Participant/Subscriber who makes a reservation to attend an InnoVia training class and does not show-up as scheduled, without calling at least 24 hours in advance to cancel, will be fined.

l) Cell Phones, PDAs, and similar devices, are required to be turned-off or "silenced" during the MLS Breakfast/Caravan meetings and all MLS-related classes. A fine will be imposed for each violation.

**Statement for Delinquent Fees & Fines.** Shall be forwarded to the Participant/Subscriber's office. Delinquent fees and fines shall be paid within 10 days of initial notification of non-compliance by the Board. Non-payment or non-compliance shall result in suspension of service the next day. Suspension of services shall include, but may not be limited to use of MLS Provider services and computer access. This will be automatic with no further notice given. Reinstatement shall be granted upon payment of a fee, in such amount as set annually by the Board of Directors, plus all delinquent fees and fines. Non-payment of account may cause expulsion by action of the Board of Directors.

**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

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

**Section 7.1 APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS:** Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

**MEETINGS**

**Section 8 MEETINGS 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.

Section 8.1 MEETINGS OF MLS PARTICIPANTS: The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

Section 8.2 CONDUCT OF THE MEETINGS: The Chairperson, Vice Chairperson, shall preside at all meetings or, in their absence; a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

**ENFORCEMENT OF RULES OR DISPUTES**

**Section 9 CONSIDERATION FOR ALLEGED VIOLATIONS:** The Committee shall give consideration to all written complaints from Participants/Subscribers having to do with violations of the Rules and Regulations.

Section 9.1 VIOLATIONS OF RULES AND REGULATIONS: If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged violation of one or more of the provisions of Section 16 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the MLS Committee and if a violation is determined, the MLS Committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Board in accordance with the bylaws of the Board of REALTORS® within twenty (20) days following receipt of the committee's decision.

If, rather than conducting an administrative review, the MLS Committee has a procedure established to conduct hearings, the decision of the hearing tribunal may be appealed to the Board of Directors of the Board of REALTORS® within twenty (20) days following receipt of the committee's decision. Alleged violations of Section 16 of the rules and regulations shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board, except that if the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board.

Section 9.2 COMPLAINTS OF UNETHICAL CONDUCT: All other complaints of unethical conduct shall be referred by the Committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the New Smyrna Beach Board of REALTORS®, Inc. bylaws.

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**CONFIDENTIALITY OF MLS INFORMATION**

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

Section 10.1 **MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:** The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant/Subscriber. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant/Subscriber agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant/Subscriber provides.

Section 10.2 **ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:** REALTORS® who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive by purchase or lease all information other than current listing information that is generated wholly or in part by the MLS, including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of these members and individuals affiliated with these members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm, except as otherwise provided in these rules and regulations.

**OWNERSHIP OF MLS COMPILATIONS AND COPYRIGHTS**

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

**Section 11** By the act of submitting any property listing content to the MLS, the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on Comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narrative, pricing information, and other details or information related to listed property.

Section 11.1 All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the New Smyrna Beach Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the New Smyrna Beach Board of REALTORS®.

Section 11.2 Each Participant shall be entitled to lease from the New Smyrna Beach Board of REALTORS® a right of single user access to the computerized MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (SUBSCRIBERS) (including licensed or certified appraisers) with such Participant with one individual right of single user access. The New Smyrna Beach Board of REALTORS® will bill each Participant & Subscriber individually for the MLS Access, but The Participant shall at all times remain responsible for the payment for each right of access at the rental fee set by the Board.

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

**USE OF COPYRIGHTED MLS COMPILATIONS**

**Section 12 DISTRIBUTION:** Participants shall at all times maintain control over and responsibility for each single user “right of access” (sign-on ID) to the computerized MLS compilation leased to them by the Board of REALTORS®, and shall not allow access to persons other than the subscribers with a single user access who are affiliated with such Participant as licensees, or licensed or certified by an appropriate state regulatory agency to

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engage in the appraisal of real property, or any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

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

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

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Multiple Listing Service has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

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 purchasers' 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.

The determination of the legal ownership of items that may be considered Intellectual Property, such as photographs and marketing prose, is believed to be outside the scope of the Board and the MLS. Therefore, these rules prohibit

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the copying of any other Participant's or Subscriber's prose, photograph(s), visual tours, or other work product from a listing without their written permission. Violations will result in a fine.

**USE OF MLS INFORMATION**

**Section 13 LIMITATIONS ON USE OF MLS INFORMATION:** Use of information from MLS compilation of current listing information, from the Board's statistical report, or from any sold or comparable report of the Board 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 Board or its MLS must clearly demonstrate the data source, period of time over which such claims are based and must include the following, or substantially similar, notice:

**from** **“Based on information from the New Smyrna Beach Board of REALTORS®, Inc. (alternatively,**

**The New Smyrna Beach MLS) for the period (date) through (date).” “This data is not limited to this firm's listings and/or sales, and is deemed reliable but is not guaranteed accurate by the MLS.” The above disclosure must be displayed in a font size/style not less prominent than the data presented.**

Section 13.1 A MLS Participant may not make the following data, intended exclusively for other MLS Participants and their affiliated licensees, available to Customers/Clients:

1. The compensation offered to other MLS Participants.
2. The type of listing agreement, i.e., exclusive right to sell or exclusive agency.
3. The seller(s) and occupant(s) name(s), phone number(s) and email address(es) where available.
4. Instructions or remarks intended for cooperating brokers only, such as these regarding showings or security of listed property.

Section 13.2 MLS data fields authorized for display may not be changed. MLS data may be augmented with additional data not otherwise prohibited from display provided the source of any additional data is clearly identified. This rule does not restrict the format of MLS data display or display of fewer than all of the listings or fewer authorized data fields.

Section 13.3 Display of MLS data must include a notice indicating that the data is thought to be reliable but is not guaranteed accurate by the MLS.

Section 13.4 Participant's Brokerage Firm may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

Section 13.5 Listings displayed pursuant to a Brokerage Firm are not required to identify the listing firm.

Section 13.6 Lockbox Use: No multiple listing service need use lock boxes and no listing broker need use a lock box on a property, but if the multiple listing service does offer the lock boxes, it must make them available to anyone who participates in the multiple listing service, whether an association member or not. Nothing shall prevent the owner's right to refuse to have a lock box on his property.

A lock box is a container affixed to property containing a device to gain access to the property being marketed by a participant in the MLS. Participants in the MLS or their salespersons (and licensed or certified appraisers and licensed inspectors affiliated with the Association) are authorized under certain conditions to open these lock boxes under terms specified by the listing broker. Cooperating brokers and sales licensees, whether functioning as agents of the listing broker or as agents of potential purchasers, must contact the listing broker to disclose their agency status and to arrange appointments to show listed property even if the property has a lock box affixed to it unless the

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listing broker has given specific permission (through information published in the MLS or otherwise) to show the property without first contacting the listing broker.

If the association or its multiple listing service elects to engage in the sale, rental, or distribution of lock boxes to its members or be involved in any way with the sponsorship or endorsement of a common lock box system, the lock box security requirements as established by the National Association of REALTORS® shall be the minimum security measures adopted and implemented in connection with such lock box system. Eligibility for coverage under the National Association's blanket errors and omissions insurance program is contingent on compliance with the lock box security requirements whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor.

Participants/Subscribers of the New Smyrna Beach Board of REALTORS® Multiple Listing Service have the right to place any lockbox or combination of lockboxes on a listed property provided the owner of the property consents to a lockbox.

So, what does that mean?

- 1) The Property Owner (excluding bank-owned properties) must give (written) consent to each type of lockbox on the property.
- 2) If a member has indicated in the listing filed in the NSBBOR MLS that a lockbox is in use and available, and indicates that in the "showing instructions" field that there is a lockbox, there may be multiple boxes, but one must be a NSBBOR lockbox, which is the Supra Ibox.
- 3) If there is not a NSBBOR lockbox (Supra Ibox) on the property, the only comment the agent can make is in Realtor Remarks.
- 4) No reference to any other type of lockbox can be made anywhere in the listing, other than in Realtor Remarks, if there is not a NSBBOR sanctioned lockbox (Supra Ibox) on the property.
- 5) Due to (lack of) security a Combo Code should never be in the MLS listing, you should say "Call Listing Agent/Firm for lockbox information."
- 6) This policy will be strictly enforced and violations (Fines starting at \$125.00) will be issued consistent with the provisions of Sections 9 and 9.1 of these rules. The second FINE is \$500.00, to a maximum of \$1,000,....so make sure you are in compliance.

The Association has the right to:

- 1) Request to see the consent to place a lockbox on the property.
- 2) Request the ID Number of the Ibox and verify that it is in our database.

#### **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 two-thirds vote at any meeting of the MLS Committee where a quorum is present, subject to approval by the Board of Directors of the New Smyrna Beach Board of REALTORS®, Inc.

#### **ARBITRATION OF DISPUTES**

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

- (a) If all disputants are members of the same Board of REALTORS® or have their principal place of business within the same Board's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS®.

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- (b) If the disputants are members of different Board of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different Boards of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the Florida Association of REALTORS®.

Interboard Arbitration Procedures: In instances where the State Association does not provide arbitration services, arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board /Association of REALTORS®.

**STANDARDS OF CONDUCT FOR MLS PARTICIPANTS**

**Section 16. Standards of Conduct for MLS Participants:**

Section 16.1 MLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements by that other MLS Participants have with clients.

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

Section 16.3 MLS Participants acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.

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

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

Section 16.6 MLS Participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers.

Section 16.7 The fact that an exclusive agreement has been entered into with a MLS Participant shall not preclude or inhibit any other MLS Participant from entering into a similar agreement after the expiration of the prior agreement.

Section 16.8 The fact that a prospect has retained an MLS Participant as an exclusive representative or exclusive broker in one or more transactions does not preclude other MLS Participants from seeking such prospect's future business.

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

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Section 16.10 When MLS Participants are contacted by the client of another MLS Participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agency agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

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

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

The following types of solicitations are prohibited:

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

Section 16.13 MLS Participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service.

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

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

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

Section 16.16 MLS Participants, acting as representatives or brokers of seller/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement.

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

Section 16.18 MLS Participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker’s offer of compensation to subagents or

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buyer/tenant representatives or brokers, nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

Section 16.19 All dealings concerning property exclusively listed, or with buyers/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings re initiated by the client.

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

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

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

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

Section 16.23 Standards of Conduct for MLS Participants. MLS participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner.

Section 16.24 Standards of Conduct for MLS Participants MLS participants shall present a true picture in their advertising and representations to the public, including the URLs and domain names they use, and participants may not:

1. engage in deceptive or unauthorized framing of real estate brokerage websites;
2. manipulate (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
3. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic, or to otherwise mislead consumers.

### **ORIENTATION**

**Section 17 ORIENTATION:** Any applicant for MLS Participation and any licensee affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than four (4) 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 sixty (60) days after access has been provided, or MLS privileges will be suspended until in compliance.

### **INTERNET DATA EXCHANGE/VIRTUAL OFFICE WEBSITES (IDX/VOWs)**

**Section 18 – IDX Defined:** IDX affords MLS Participants the option of authorizing display of their active listings on other Participants' Internet web sites.

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Section 18.1 Participants' consent for display of their active listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller.

Section 18.2 Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. This requirement can be met by maintaining an office or Internet presence from which participants are available to represent real estate sellers or buyers (or both).

Section 18.2.1 Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies. Participants seeking a persistent data feed shall submit a request to the MLS Provider on a form approved by the MLS and subject to MLS Committee approval.

Section 18.2.2 Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.

Section 18.2.3 Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOW's) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

Section 18.2.4 Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each participant.

Section 18.2.5 Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

Section 18.2.6 Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

Section 18.2.7 When displaying listing content, a participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

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



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

Section 18.3.1.1 The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed on IDX sites.

Section 18.3.2 Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified.

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This requirement does not restrict the format of MLS data display or the display of fewer than all of the available listings or fewer than all the authorized data fields.

Section 18.3.3 All listings displayed pursuant to IDX are required to be marked with the MLS IDX logo. The logo shall be  or .

Section 18.3.4. All listings displayed pursuant to IDX shall identify the listing firm in a readily visible color and typeface not smaller than the median used in the display of listing data.

Note - This is typically in the form of the statement “Courtesy of [Listing Firm Name]” shown on all IDX listing detail sheets just below the IDX logo.

Section 18.3.5 Non-principal brokers and sales licensee affiliated with IDX Participants, who are NSB BOARD Realtor® members and are MLS Subscribers, 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 regulations.

Section 18.3.6 Any Internet website used for publication of the IDX Database or any portion thereof must be controlled by a single IDX Participant, (alternatively, by a single IDX Subscriber or IDX Subscriber “team”, subject to their Participant’s consent and control), and advertised as that IDX Participant’s (or Subscriber’s) internet web site, subject to the requirements of state law and/or regulations.

Section 18.3.7 All listings displayed pursuant to IDX shall show the MLS as the source of the information.

Section 18.3.8 Participants (and their affiliated licensees, if applicable) shall indicate on their websites that “IDX information is provided exclusively for consumers’ personal, non-commercial use and may not be used for any purpose other than to identify prospective properties to consumers that may be interested in purchasing, and that the data is deemed reliable but 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.

Disclosure(s) to be located, as a minimum, on the website property search results page.

“The data relating to real estate for sale/lease on this web site comes in part from the New Smyrna Beach Board of REALTORS® Multiple Listing Service (MLS) in which this real estate firm (Broker) participates. The properties displayed may not be all of the properties in the MLS’s database, or all of the properties listed with the Brokers participating in the cooperative data exchange program. Properties listed by Brokers other than this Broker are marked with the MLS IDX logo. Information provided is thought to be reliable but is not guaranteed to be accurate; you are advised to verify facts that are important to you. No warranties, expressed or implied, are provided for the data herein or for their use or interpretation by the user. Federal law prohibits discrimination on the basis of race, color, sex, religion, handicap, familial status or national origin in the sale, rental or financing of housing.”

- Update frequency disclaimer:

Show on search summary page, 1) “This data updated periodically, at an interval not to exceed 7 days, alternatively, show the actual valid date or date updated. 2) Some properties which appear for sale on this website may subsequently have sold and may no longer be available.”

- Copyright notice required on detail sheet:

“Copyright [Date (Year)] New Smyrna Beach Board of REALTORS®, Inc. All rights reserved.”

Section 18.3.10 The right to display other Participants’ listings pursuant to IDX shall be limited to a NSB BOARD REALTOR MEMBER Participant’s office(s) holding participatory rights in the MLS.

Section 18.3.105 Listings displayed pursuant to IDX shall not display contact information for, or in any way portray being serviced by, real estate licensees who are not NSBBOARD REALTOR MEMBER MLS Participants or Subscribers.

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Section 18.3.11 Listings obtained through IDX must be displayed separately from listings obtained from other sources, excluding information provided by other affiliate MLSs. Listings obtained from other sources must display the source from which each listing was obtained.

Section 18.3.12 Display of expired, withdrawn, and pending listings is prohibited.

Section 18.3.13 Display of Seller's(s') and/or occupant's(s') name(s), phone number(s) and email address(es) is prohibited.

Section 18.4 Service Fees and Charges Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

Section 18.5 IDX - All NSBBOR MLS members who are eligible for IDX under this Section and desiring to utilize a Persistent MLS IDX data feed, rather than Framed or Transient data, are required to execute the Agreement for Broker/Agent Website use of Persistent MLS Listing Data. This requirement is retroactive and applies to all current and future users.

**Section 19 VOW Policy**

Section 19.1 (a): A Virtual Office Website ("VOW") is a Participant's Internet website, or a feature of a Participant's website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant's oversight, supervision, and accountability.

(b) As used in Section 19 of these Rules, the term "Participant" includes a Participant's affiliated non-principal brokers and sales licensees – except when the term is used in the phrases "Participant's consent" and "Participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a Participant.

(c) "Affiliated VOW Partner" ("AVP") refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant's supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

(d) As used in Section 19 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

Section 19.2 (a): The right of a Participant's VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

(b) Subject to the provisions of the VOW Policy and these Rules, a Participant's VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange ("IDX").

(c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant's VOW.

Section 19.3 (a): Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

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(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 email address for, each Registrant. The Participant must send an email 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 email 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 email address is associated with only one user name and password.

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

(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, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

(d) The Participant shall require each Registrant to review, and affirmatively to express agreement (by mouse click or otherwise) to, a “Terms of Use” provision that provides at least the following:

- i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
- ii. That all information obtained by the Registrant from the VOW is intended only for the Registrant’s personal, non-commercial use;
- iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
- iv. That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant’s consideration of the purchase or sale of an individual property;
- v. That the Registrant acknowledges the MLS’s ownership of, and the validity of the MLS’s copyright in, the MLS database.

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

(f) The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants’ listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the Participant and the Registrant.

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

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to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

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

(NOTE: 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 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 email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

(b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision:

**Seller Opt-Out Form**

1. Please check either Option a or Option b

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

OR

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 search.

\_\_\_\_\_  
initials of seller

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

Section 19.7:

(a) Subject to subsection (b), 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) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

Section 19.8: A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant

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shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 19.9: A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

Section 19.10: Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

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

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

Section 19.13: A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

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

Note: Sections 19.15 –19.19, if adopted, mandates that an equivalent requirement is 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. Not adopted.
- b. The compensation offered to other MLS Participants.
- c. The type of listing agreement, i.e., exclusive right to sell or exclusive agency.
- d. The seller's and occupant's name(s), phone number(s), or e-mail address(es).
- e. Instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property.

Section 19.16: A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS Listing Information with additional information not otherwise prohibited by these Rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields

Section 19.17: A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS Listing Information displayed on the VOW is thought to be reliable but is not guaranteed accurate by the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.

Section 19.18: Not adopted

Section 19.19: Not adopted

Section 19.20: A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

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

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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.

Section 19.22: A Participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

Section 19.23: 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 be searched separately from listings in the MLS.

Section 19.24: Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

Section 19.25: Where a seller affirmatively directs their 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 48 hours.

**Section 20 MLS Advantage** - MLS Advantage is a Florida Association of Realtors® member benefit allowing participating boards and members to share available MLS listings across the state of Florida. Features 1) Showing Instructions, 2) Realtor Remarks, 3) offer of compensation, and 4) arbitration to all members. With a single search, members can find all listings that match their search parameters from participating MLS boards. Property listing information can be auto-populated from MLS Advantage directly into contracts in Forms Online Gold and TransactionDesk™. This valuable search tool is available only to members of subscribing associations and MLSs. New Smyrna Beach Board of Realtors®-MLS is a subscriber to MLS Advantage. All NSBBOR members who are Participants in the MLS are automatically opted-in for all.

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Appendix 1  
MLS VIOLATIONS – FINE SCHEDULE

MLS VIOLATIONS – FINE SCHEDULE	<b>FINE</b>
<b>Failure to File Listing Inputs</b> - Failure to input mandatory property listings (unless a certification signed by the seller that he/she does not desire the listing to be disseminated by the service is provided to the Board office) within 3 days (not including weekends and holidays) into Participant’s own MLS access or to be received by the Board office, after all required signatures of seller’s have been received, will result in a fine for each working day until the property is loaded.	\$100 per day not to exceed \$15,000
<b>Contingency Status</b> – A Status Change with the date of contract acceptance is to be input into Participant's own MLS access or received by the Board office within 3 days of said date of acceptance. Failure to comply with this time frame will result in a fine.	\$25
<b>Sold Status</b> - A Sold Status report shall include the salesperson's name, member number, date of closing, selling office number, selling price, and sale terms. This information is to be input into MLS Participants' own MLS access or received by the Board office within 3 days after the disbursement of funds. Failure to comply with this time frame will result in an initial fine and an additional fine per day - up to a maximum fine per occurrence.	\$25 initially, \$5 per additional day Max \$100 per listing
<b>Confidential Listings</b> - A signed copy of the Request for Confidential Treatment must be sent to the Board within 3 days (not including weekends or holidays) after all required (Sellers) signatures have been received. Failure to send the information to the Board will result in a fine.	\$100
<b>Incorrect Category</b> or <b>Named Prospects Listing</b> not disclosed– There will be a fine for listings entered incorrectly as Exclusive Right of Sale when they should be categorized as Exclusive Agency because the owner has the right to sell property themselves, or where a Named Prospects listing is not disclosed.	\$50 first, \$75 second, \$100 third and any thereafter
<b>Incomplete/incorrect Information on Listing</b> - After initial input of a listing, the Participant will have 3 days to review and correct the information before a fine is imposed. If a Participant has a second offense of the same infraction, the subsequent fines will be higher.	\$25 initially, \$50 subsequent
<b>Misuse of Fields on Property Data Forms</b> - a fine per field will be Imposed if field is used for information other than as specified, i.e., condo/sub name “creampuff”; owner name “call listing office”, “see other remarks” and the related remarks are not otherwise provided, etc. These are not required fields, therefore can be left blank.	\$10 per field
<b>Property Parcel Tax Identification Description (PID) Number</b> – The PID number must be for the primary listed property; associated property included in the listing must show the additional PID number(s) in the Remarks Field. If the PID number is not entered into the MLS correctly and in the proper format, a fine will be imposed.	\$50
<b>Directions</b> – A fine will be imposed in the directions, for an applicable listing, do not start from a major intersection or inappropriate wording is entered to fit the Direction’s Field.	\$25
<b>Photo or Remarks Section</b> – A fine per listing will be imposed if any listing input into MLS has names, phone numbers, email address, or web site addresses of agents or offices in the photo remarks section.	\$100
<b>Property Photo</b> – All Photos must be an accurate depiction of the listed property. At least one photo must be an aerial, or a street or front view for location purposes. Real estate signs, legible or not, are not permitted in residential or vacant land listing photos. All Property Types must have a photo except for those Commercial Listings that are 1>entered into the MLS and 2>designated as “Confidential”. Failure to provide a Photograph on any property type within 72 hours will result in a fine being imposed.	\$25
<b>Virtual Tour</b> – The virtual tour must be unbranded (no Participant, franchise or broker contact information) or a fine will be imposed. The name and /or logo of a third-party virtual tour company is allowed – in a virtual tour, but no links are allowed. <b>Utilization of a webhost "URL" containing a realty firm name is considered branding; I.E., <a href="http://www.MyRealtyFirmName.com/MyVirtualTour1#2345">www.MyRealtyFirmName.com/MyVirtualTour1#2345</a>.</b>	\$25
<b>New Construction</b> – New construction can be entered into the MLS System at the time the permit is pulled, provided a rendering (elevation or floor plan) of the home is included in place of photo and an	\$25

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estimated date of completion is entered in the REMARKS. Failure to update a past-date in REMARKS is a violation. If a violation is not corrected in 3 days, a fine will be Imposed.	
<b><u>Listing Announcements Prior to MLS Submission</u></b> – A fine will be imposed if a listing has not been submitted to the Board office or entered into the MLS database prior to announcement of said listing at the weekly MLS Breakfast. After 10 days of non-payment, the suspension of service will apply.	\$100
<b><u>Police Icon</u></b> – MLS Participants have a 3-day grace period to correct any violations that are emailed to the Board from the police Icon in InnoVia, or when Participants are given a courtesy notice of violations by the Board. If the violation is not corrected in 3 days, a fine will be Imposed. Repetitive violations will result in an immediate fine. Note: Certain violations have no courtesy notice period.	\$25
<b><u>Supra Key</u></b> – Members found loaning their Supra Key to anyone, including assistants, will be subject to a fine for 1st offence, doubling for each subsequent offence.	\$100 1 <sup>st</sup> , \$200 2 <sup>nd</sup> , \$400 3 <sup>rd</sup>
<b><u>Lockbox</u></b> – There is a fine to the Broker’s Office for marking “yes” for Lockbox on a listing if there is not a NSB Board’s sanctioned (Supra) lockbox on the property.	\$50
<b><u>Lockbox Reference</u></b> - No reference to any other type of lockbox can be made anywhere in the listing, other than in Realtor Remarks, if there is not a NSBBOR sanctioned lockbox (Supra Ibox) on the property. Due to (lack of) security a Combo Code should never be in the MLS listing, you should say “Call Listing Agent/Firm for lockbox information.” This policy will be strictly enforced and violations (Fines starting at \$125.00) will be issued.	\$125 1 <sup>st</sup> \$500 2 <sup>nd</sup> \$1000 max
<b><u>NSB BOARD Member Participant Single-User License</u></b> – NSB Board Member Participants & Subscribers that purchase an access to the MLS are granted a single-user license to personally access the MLS system. Violations will result in a fine and/or a three-month suspension from the MLS per occurrence.	\$2,000 and/or suspension
<b><u>MLS ONLY REALTOR Participant Single-User License</u></b> – MLS ONLY REALTOR Participants & Subscribers that purchase an access to the MLS are granted a single-user license to personally access the MLS system. Violations will result in a fine and/or a three-month suspension from the MLS per occurrence.	\$2,000 and/or Suspension
Any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Board or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice: “Based on information from the New Smyrna Beach Board of REALTORS®, Inc. (alternatively, from the New Smyrna Beach MLS) for the period (date) through (date) This data is not limited to this firm’s listings and/or sales, and is deemed reliable but is not guaranteed accurate by the MLS.” <i>(The above disclosure must be displayed in a font size/style not less prominent than the data presented.)</i>	\$100 Fine Assessed to Broker
LIMITED SERVICES/NO SERVICES LISTINGS: Limited Services Listings or No Services Listings must be identified or flagged in the MLS compilation of data. This will be accomplished by the Participant/Subscriber selecting “Limited” or “No Services” on the MLS listing input field, Failure to comply is a violation.	\$100 Fine
WITHDRAWAL OF LISTING PRIOR TO EXPIRATION: Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided notice is filed with the Service including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal. Failure to comply is a violation.	\$25 Fine
No Participant or Subscriber shall copy marketing prose, photographs, visual tours or other work product from another Participant’s or Subscriber’s listing without permission.	\$100/ listing
Violations of Rules without scheduled fines. THE MLS COMMITTEE may establish and assess fines, Subject to Board Approval, for Rule Violations where no formal fine schedule has been established, with or without giving a courtesy notice, for both current and past violations.	MLS Committee

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Misuse of the Member Bulletin – using the member bulletin to advertise properties and/or Items that are not entered into or allowed into the MLS is a violation. Posting more than one active bulletins on the same property is a violation	\$25 FINE
Caravan Rule Violations – Fines are Established in the Caravan Rules	See Caravan Rules
Failure to provide a current personal Photograph or valid unique email address to the MLS.	\$25 / week \$100 max FINE
Inclusion of a security access code in an MLS field	\$25 / listing Fine
Entering a listing to obtain MLS listing credit when there was no listing agreement and/or no legitimate offer of compensation, (under contract before listing entered, for example) Failing to use the MLS Add-a-sale.	\$100 Fine to Suspension
Taking MLS credit for a sale when there was an ‘out of area’ or any other Broker responsible for the sale	\$100 Fine to Suspension
Misclassification of Waterfront Property or Misclassification of Bedrooms as defined in MLS Rules	\$50 Fine
Failure to comply with IDX Rules – Fines assessed on a case by case basis	MLS Committee
Concealment of or failure to obtain proper MLS Sign on Access for all Licensed or Un-Licensed administrators or assistants who have access to the MLS for any reason.	Broker Fine \$100 min.
Including non-MLS member contact information in a listing as a Realtor Contact without having provided the Waiver for use of the Association's Multiple Listing Services.	Broker Fine \$50
Leaving any contingent or pending residential listing in “Active” status without strict adherence to Section 1.6.1 “Contingency with Kick out” procedures.	\$50 Fine
Repeat MLS Violations/Infractions	Broker Fine \$150 plus additional measures
Any Remarks placed in the Marketing Remarks section indicating 1) Commissions, or 2) 3rd Party Approval of Commissions, or 3) any Bonus or any other incentive to a Selling Agent. - \$25 minimum fine.	\$25 Fine
Any Remarks placed in the Marketing Remarks section indicating the presence of a lockbox or indicating that any improved property is vacant or unoccupied. - \$25 minimum fine.	\$25 Fine
Any listing Remarks indicating false or misleading information for the purpose of offering for sale or for the purpose of causing or inducing any other person to purchase, lease, or rent real estate, or to acquire an interest in the title thereto, is prohibited - \$500 minimum fine.	\$500

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Appendix 2

**MLS POLICY** – Clarifications, Interpretations, Definitions and Recent Additions

**Non-compliance of the following MLS rules/Policy definitions will be subject to Board fines**

1. **Waterfront Features** – MLS Committee Policy “CANALFRONT” definition - property located on a navigable canal providing, as a minimum, small motorcraft access to the river and/or ICW.
2. **Definition - "Townhouse:** a single-family, attached dwelling unit with party walls; usually an individual unit in a series of five to ten houses, with common walls between the units and side yards on the end units only; may have one to three stories and all necessary facilities and amenities." Title to the Land beneath is held in the name of the Townhouse owner and is not community or common property, as it would be in a condominium. Therefore, Townhomes are constructed side by side rather than vertical.

**Waterfront Features:** For a property to be categorized as "INTRACOASTAL", the property living unit/site must be located directly on the Intracoastal Waterway (ICW). Properties having exclusive Riparian Rights on the ICW can also be categorized as Intracoastal. For those properties not directly on the ICW, but have direct powerboat access to the ICW Via navigable canal and/or river, deeded/dedicated exclusive or private community access dockage/boat ramp, etc., or direct bay access such as Turnbull or Brown's Bay, we have added an additional waterfront feature "INTRACOASTAL ACCESS". Once again, the living unit/site must be located directly on the body of water giving boat access to the Intracoastal.

Interpretation:

In order to have waterfront features of any kind, either the property or the property's common area must have direct access to or be directly on the water. In other words, a house near a public boat ramp, but not on the water, cannot claim IntraCoastal or River Access for MLS purposes.

**MEMBER BULLETIN** - Misuse of the Member Bulletin shall result in a fine. The purpose of the Bulletin is to provide news and information on current listings. Advertising properties that are not listed, Personal property not associated with a listing, or Rentals without entry into the MLS is a violation.

**DUPLICATE BULLETINS** – Bulletin advertising is limited to one active bulletin per property. More than one active bulletin per property listing will result in a fine.

**FALSE CREDIT CLAIMED** - Falsely claiming credit for selling a listed property when there was an out of area agent involved is a fineable offense.

**FALSE LISTING GENERATED** - Failing to use the MLS “Add-A-Sale” feature and generating a false listing to obtain credit for a listing and a sale when there was no bonafide listing (with offer of compensation) is a fineable offense.

**PERSONAL PHOTOGRAPH** - All MLS Participants and Subscribers are required to submit and maintain a current personal photograph for the agent roster. (Failure to comply will result in a fine)

**E-MAIL ADDRESS** - All MLS Participants and Subscribers are required to submit and maintain a current working e-mail address in the MLS system. (Failure to comply will result in a fine)

**BEDROOM** - For MLS purposes, a “bedroom” is defined as a room, physically separated from other rooms, that in the case of SFR home, has both a window and a fixed closet, and in the case of a condo, cooperative, condo-tel, townhome, and plex unit, has at least a fixed closet. No window is required because of the common wall usually associated with multi-family housing. (Misclassification will result in a fine.)

**Property Photo** – All Photos must be an accurate depiction of the listed property. At least one photo must be an aerial, or a street or front view for location purposes.

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**Real estate signs**, legible or not, are not permitted in residential or vacant land listing photos. Violations will result in a fine.

**All Property Types** must have a photo except for those Commercial Listings that are designated as “Confidential”. Failure to provide Photograph on any required property type within 72 Hours will result in a fine being imposed.

**No Lockbox Combinations**, Builder Keybox combinations, Community Gate Codes, or other Security Access codes shall be entered into any field in the MLS. Violations will result in a fine.

**Fractional Ownership MLS policy**

**"Fractional Ownership"** - a marketing term used to describe the joint ownership of property in conjunction with a shared use and maintenance agreement. This form of ownership has historically been used for personal property, such as boats and planes, but has recently been marketed by companies selling fractional shares of units in resort-style developments. Some owners of single-family homes and condominium units have expressed interest in marketing their property with this form of ownership.

**MLS Fractional Ownership Listing Requirements**

1) the following leading statement in customer remarks: InnoVia to be modified\* to add a (coded feature) checkbox "Fractional Ownership". InnoVia will auto-populate beginning of customer remarks with "Fractional Ownership - price reflects an ownership amount of \_\_\_"; 2) list agent input “Amount of Ownership”.

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Appendix 3  
**CARAVAN PROCEDURES**

Caravan participation is limited to MLS Participants and Subscribers only.

Only members in good standing (those having board dues and MLS fees current) may place a property on caravan and the agent or their designated representative must be present at the Thursday MLS breakfast meeting and participate in the entire caravan. (Failure to participate in the entire caravan may result in a \$25 fine)

Members may schedule or cancel a property on caravan with the board office until Tuesday, 12 noon. A Cancellation after the cut-off time does not excuse the agent or their designated representative from attending the MLS Meeting and the Caravan, in support of the Caravan.

Staff will determine Caravan Size based on routing, total backlog, and number of different agents represented. Staff's goal will be to limit Caravan to two hours duration. There will be no additions to the caravan at the MLS breakfast meeting.

At the MLS breakfast meeting, if the agent of a scheduled property removes that property from the caravan or is not in attendance at the MLS breakfast meeting, this will be regarded as forfeiture by the agent and the property may be rescheduled one (1) time only during a four (4) month period.

An improved property may be placed on caravan every four (4) months.

“No Show” for Caravan Meeting – if you have a property on a specific caravan and do not attend the MLS Caravan meeting and the Caravan on that specific Thursday morning (without calling to cancel before the cut-off time), you will be fined \$25.00. You may not put another house on Caravan until the \$25.00 fine is paid.

Participants on the caravan will meet at the first property and depart from that property (and all properties) in a “caravan”.

Participation in caravans is not required; however, members who have scheduled homes on a specified caravan must attend all those scheduled caravan homes unless they give a specific reason and ask for, and receive agreement from the other caravan participants. Member discussions will be limited to no more than three listing per member per listing category.

Only residential properties (including single units of duplexes, triplexes and quadplexes) For Sale are to be placed on caravan; Commercial, business opportunity, vacant land or “For Lease” Properties are not permitted.

Caravans will be routed in the most expeditious route. No exceptions will be made; i.e., requesting a property be placed last on a caravan so refreshments may be served.

When faxing or mailing in a caravan property, please use the caravan form provided by New Smyrna Beach Board of Realtors® and include the following information: MLS#, Office name and Address of Property.

Caravan Priority Placement. There will be one priority placement each week on a first-come, first-served basis. For a \$25 fee the property will be routed in the next caravan for the area and the requester will have the option of placing the property either first or last.

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MLS Rules & Regulations Adopted 12/09/1987 Approved by NAR 05/02/1988  
Amended 4/11/1990  
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Amended 10/5/1992  
Amended 10/5/1994  
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Amended 7/01/2001  
Amended 1/22/2002  
Amended 4/08/2002  
Amended 11/01/2003  
Amended 03/09/2005  
Amended 3/15/2004 - Approved by NAR 4/29/2004  
Amended 08/10/2005  
Amended 9/2/2005  
Amended 9/21/2005  
Amended 10/12/2005 – Approved by NAR 11/15/2005  
Amended 2/26/2007 – DRW  
Amended 7/16/2007 – FLF  
Amended 09/18/2007 – Approved by NAR 11/13/2007  
Amended 1/09/08 – DRW  
Amended 11/23/08 – DRW  
Updated for VOW & Misc 2/03/09 – DRW  
Amended 2/26/09 - DRW  
Amended 5/11/09 – DRW  
Amended 6/4/09 DRW IAW NAR letter 6/3/09  
Amended 9/20/09 DRW - IAW NAR Letter 8/25/09  
NAR Approved 9/28/09