

# **Realcomp II Ltd. Rules and Regulations**

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**Regional MLS Rules and Regulations**

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## Definitions

**COMPENSATION**- Compensation shall mean the fee, commission or payment (sometimes "fee" and sometimes "fee/commission") paid to a Cooperating Participant as a result of his/her involvement in the closing of a sale/lease of property listed with the MLS.

**COOPERATING PARTICIPANTS/LISTING PARTICIPANTS** - Cooperating Participants/Listing Participants are the Participants who are serviced by the MLS under an operative Subscription/Service or Data Sharing Agreement from which they derive benefits and under which they have various obligations and duties to others and to the MLS; and out of which they seek to derive compensation from their roles in the prospective sale/lease of real estate.

**BROKER LOAD** - For the purpose of these Rules and Regulations, where there are provisions relating to the submission of documents to the Service, the document may be loaded by the office within the time constraints provided.

**FAX** - For the purpose of these Rules and Regulations, where there are provisions relating to the submission of documents to the Service, the document may be sent by facsimile within the time constraints provided.

**LISTING** - The written agreement including the Profile Form which establishes an agency relationship between a Participant as an agent and a seller/lessor of real estate (the principal) for the sale/lease of said real estate by Participant either with or without the involvement of Cooperating Participants. The agreement is sometimes known or referred to as an "agency agreement"; "right to sell agreement" or "listing agreement".

**LISTING DATE** - The date that the listing is signed by the seller/lessor and accepted by the Listing Participant (by the Broker or authorized Agent).

**MLS PARTICIPANT** - Where the term Realtor<sup>®</sup> is used in this explanation of policy in connection with the word member or the word participant, it shall be construed to mean the Realtor<sup>®</sup> principal or principals, of this or any other association, or a firm comprised of Realtor<sup>®</sup> principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are Realtor<sup>®</sup> members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. (Amended 2008)

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

intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (Adopted 11/08)

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

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

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

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

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to Realtor<sup>®</sup> principals, or to firms comprised of Realtor<sup>®</sup> principals, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing Realtors<sup>®</sup> not holding primary or secondary membership locally fees, dues, or charges that exceed those or, alternatively, that are less than those charged participants holding such memberships locally or additional fees to offset actual expenses incurred in providing MLS services such as courier charges, long distance phone charges, etc., or for charging any participant specific fees for optional additional services.

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

**MOBILE AND ELECTRONIC DISPLAY DEVICES** - As used in this Section and applied in these Rules and Regulations:

- a) Mobile Devices are defined as portable instruments capable of accessing the Internet, and include for example but are not limited to the following: smart phones, mobile phones, handheld devices, handheld computers, mobile Internet devices, PDAs (personal digital assistants) and Blackberries.
- b) Electronic Display Devices are defined as instruments that exhibit information, and include for example but are not limited to the following: satellite, cable and broadcast television channels, digital signage, electronic display boards, public facing monitors and electronic kiosks.

**PROFILE FORM** - The document which must be submitted to the MLS setting forth the information concerning the listed property. The Profile Form includes the data sheet which is a part of the Listing Agreement and such other data or certifications as may be required by the MLS from time to time. This information and data is for input into the multi list computerized database.

**SANCTIONS/FINES** - All schedules relating to possible fines and/or sanctions will be implemented in accordance with the policies and procedures included in 9.1.

# REALCOMP II LTD

## REGIONAL MLS RULES & REGULATIONS

For Interpretation of these MLS Rules & Regulations, the following shall apply:

1. Multiple Listing Service shall be referred to as the MLS provided by Realcomp II Ltd.
2. Wherever time of mailing of notice is referred to or required, postmark, fax date and time stamp or date and time of entry in the case of Broker Load shall constitute compliance.
3. A business day for purposes of these Rules and Regulations is defined as every day of the calendar year.
4. Fineable items are indicated by referencing (Sec.9.3).
5. Index of Symbols (Sec.5.5).

### LISTING PROCEDURES

**Section 1.0** The Profile Form portion of listings of real or personal property of the types described in the following paragraph which are listed subject to a real estate broker's sales license, and which are located within the territorial jurisdiction (defined as the State of Michigan) ("Territorial Jurisdiction") of the Realcomp II Ltd. multiple listings service ("MLS"), shall be delivered to the MLS office or entered into the MLS computer 48 hours after all necessary signatures have been obtained. Listings containing names of excluded or exempt parties and/or buy out corporations will be accepted by the MLS and shall be clearly identified in the Exclusive Listing by the appropriate symbol (Sec. 5.5). The owner of the listed property is the client of the Listing Participant\* and not of all members of the MLS or of the MLS (Sec. 9.3).

The MLS shall accept Exclusive Listings, (which are sometimes known or identified as an Exclusive Right to Sell or an Exclusive Agency Agreement) and may accept other forms of agreement which make it possible for the Listing Participant to offer cooperation and compensation to the other Cooperating Participants of the MLS. In those instances where the seller's/lessor's written authorization is required, the Listing Participant must obtain such authorization.

An Agreement with a Seller/Lessor to exclude or exempt prospects (including buy-out corporations) from full or partial commission entitlement by the Cooperating Participants shall be accepted by the MLS provided all other mandatory listing criteria are met.

Any listing taken out of the Territorial Jurisdiction may be submitted to the MLS for dissemination and if submitted will be accepted.

Net listings and open listings will not be accepted by the MLS. The MLS 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.  
(Revised 2017)

**Section 1.1** Any listing taken on a contract to be filed with the MLS is subject to the rules and regulations of the Service upon signature of the seller(s)/lessor(s). This rule also applies to listings which are sold prior to submission to the MLS.

**Section 1.2** The approved Profile Form when filed with the MLS by the Listing Participant shall be

complete and correct in every detail as specified on the keyword portion of the Profile Form. (Sec. 9.3)

Section 1.2.1 **EXCLUSIVE RIGHT TO SELL LISTINGS:** is a contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker, regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else; and a contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker.

Section 1.2.2 **EXCLUSIVE AGENCY LISTINGS:** authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves the general right of the seller to sell the property on an unlimited or restrictive basis. (In other words, the seller will pay the agent's commission if the agent brings in the buyer, but if the seller brings in their own buyer, the seller is not obligated to pay a commission) and will be identified by the marking the "Exclusive Agency" box on the Profile Form.

Section 1.2.3 **LIMITED SERVICE:** a listing agreement 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 purchases but instead gives cooperating brokers authority to make such appointments directly with the seller(s);
- (b) Accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s);
- (c) Advise the seller(s) as to the merits of offers to purchase;
- (d) Assist the seller(s) in developing, communicating, or presenting counteroffers; or
- (e) Participate on the seller(s) behalf in negotiations leading to the sale of listed property.

Limited Service listings will be identified by marking the "Limited Service" box on the Profile Form 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 1.2.4 **MLS ENTRY-ONLY:** listing where the listing is entered into the MLS system, but NONE of the services mentioned previously are provided by the listing broker.

MLS Entry Only listings will be identified by marking the "MLS Entry Only" box on the Profile Form 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 If the seller/lessor refuses to permit the listing to be disseminated by the MLS, the Listing Participant may then take the listing as an office exclusive and such listing shall be filed with the MLS, but not disseminated to the other Participants. Filing of the Profile Form or Listing Agreement in this instance should be accompanied by the certification signed by the seller/lessor that the Listing shall not be disseminated by the MLS. (Sec. 9.3)

Any listing that cannot be shown must be removed from the MLS until showings can resume. New listings that cannot be shown must follow the above process for listings that are not disseminated by the MLS. (Added 2014)

- Section 1.4 All Profile Forms submitted to the MLS must be valid and shall be serviced by the Listing Participant's office.
- Section 1.5 Listings may be withdrawn from the MLS by the Listing Participant before the expiration date of the listing provided notice is filed with the MLS including a copy of the agreement between the seller/lessor and the Listing Participant which authorizes the withdrawal. This withdrawal right shall not be used to circumvent or avoid the obligation to pay a share of the fee/commission/compensation to a Cooperating Participant.
- Sellers/lessors do not have the unilateral right to require an MLS to withdraw a listing without the listing participant's concurrence. However, when seller(s)/lessor(s) can document that his exclusive relationship with the listing participant has been terminated, the MLS may remove the listing at the request of the seller/lessor.
- Section 1.6 Any change in the Listing, including but not limited to the listed price, terms, possession, right of first refusal, or other "continue to market" contingencies shall be made only when authorized in writing by the seller/lessor and shall be filed within 48 hours with the MLS. (Sec. 9.3)
- Section 1.7 All listed properties which are to be sold or which may be sold separately must be identified and submitted individually on the Profile Form. When part of a listed property has been sold, proper notification shall be given to the MLS within forty-eight (48) hours. (Sec. 9.3)
- Section 1.8 The MLS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the MLS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between Cooperating Participants or between Participants and non-participant(s).
- Section 1.9 Profile Forms filed with the MLS shall bear a definite expiration date.
- Section 1.10 Any listing filed with the MLS automatically expires at midnight on the expiration date specified in the listing agreement unless renewed in writing and filed with the MLS by Participant prior to expiration date.
- If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, a new or revised profile form is required and 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 Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants.
- Section 1.12 **LISTING OF SUSPENDED PARTICIPANTS:** When a Participant is suspended from the MLS for failing to abide by his/her membership duties (i.e., violation of the Code of Ethics, Board/Association Bylaws, Realcomp II Ltd Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained by the MLS until sold, withdrawn or expired and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has



been suspended from its parent Board/Association (except where MLS participation without Board/Association membership is mandated by law or the MLS (or both)) for failure to pay appropriate dues, fees or charges, the MLS shall not be obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of the current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant must be advised in writing of the intended suspension. The suspended Participant shall promptly advise his/her clients affected by the suspension of such suspension.

Section 1.13 **LISTINGS OF EXPELLED PARTICIPANTS:** When a Participant is expelled from the MLS for failing to comply with membership duties (i.e., violation of the Code of Ethics, Board/Association Bylaws, Realcomp II Ltd Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS shall, at the expelled Participant's option, be retained by the MLS until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Board/Association to which he/she belonged; (except where MLS participation without Board/Association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, the MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listing(s) from the MLS, the expelled Participant must be advised in writing of the intended expulsion. The expelled Participant shall promptly advise his/her clients affected by the expulsion of such expulsion.

Section 1.14 **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 must be advised in writing of the intended removal. The resigned Participant shall promptly advise his/her clients affected of such resignation.

## **SELLING PROCEDURES**

Section 2.0 Appointments for showing and negotiations with the seller/lessor for the purchase/lease of listed property filed with the MLS shall be conducted through the Listing Broker except under the following circumstances:

(a) the Listing Broker gives the Cooperating Broker specific authority to show and/or negotiate directly or

(b) after reasonable effort, the Cooperating Broker cannot contact the Listing Broker or his representative.

However, the Listing Broker, at his option, may preclude such direct negotiations by Cooperating Brokers.

Section 2.1 Listing Participant must make arrangements to present offers and transmit all documents as soon as possible or give the Cooperating Participant a satisfactory reason for not doing so and shall also provide reasonable alternatives to resolve any such delay.

Section 2.2 The Listing Participant shall submit to the seller/lessor all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller/lessor and the listing participant. Unless the subsequent offer is contingent upon the termination of an existing contract, the Listing Participant shall

recommend that the seller/lessor obtain the advice of legal counsel prior to acceptance of the subsequent offer.

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

- Section 2.3 The Cooperating Participant (subagent or buyer agent) or his representative shall have the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. This right does not create a right to be present during any subsequent discussion(s) (including a conversation which evaluates the offer immediately following the presentation) between the Listing Participant and the seller or lessor with respect to the presented offer. However, if the seller or lessor gives written instructions to the Listing Participant that the Cooperating Participant shall not be present when an offer secured by the Cooperating Participant is presented, the Cooperating Participant has the right to a copy of the seller's written instructions. None of the foregoing diminishes the Listing Participant's right to control the establishment of appointments for such presentations.
- Section 2.4 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 Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing broker within 5 days after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 48 hours after occurrence and the listing broker shall report them to the MLS within 72 hours after receiving notice from the cooperating broker. (Amended 11/2011)
- 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.
- Section 2.6 Any pending sale which is canceled shall be reported immediately (within 24 hours) to the MLS by the listing office. (Sec. 9.3)
- Section 2.7 The Listing Participant shall submit, within 48 hours (two business days) after receipt of a completed Contract of Sale and when no further showings are being scheduled, a Status Change form of the "Pending Sale" to the MLS including pending sale date. (Sec. 9.3) (revised 2016)
- Section 2.8 The Listing Participant shall submit a Status Change form with all required sold data to the MLS including price, terms selling office I.D.#, selling agent I.D.#, and selling agent name and date closed to the MLS within 5 business days after closing. (Sec. 9.3)
- Section 2.9 The listing broker shall report to the MLS within twenty-four (24) hours that a

contingency on file with the MLS has been fulfilled or renewed, or the agreement cancelled.

- Section 2.10 A listing shall not be advertised by any Participant other than the listing broker without the prior written consent of the listing broker.
- Section 2.11 Listing brokers, in response to inquiries from buyers or cooperating brokers, shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. (Amended 11/2008)
- Section 2.12 Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

### **REFUSAL TO SELL**

- Section 3.0 If the seller/lessor of any listed property filed with the MLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be immediately transmitted to the MLS and to all Participants.

### **PROHIBITIONS**

- Section 4.0 Information provided by the MLS to the Participant shall be considered privileged information by the MLS. Such information shall be confidential and shall not be made available to non-participants except as permitted by these MLS rules and applicable law.
- Section 4.1 Sold listings are intended for the sole use of REALTORS® and may not be provided to home buyers or home sellers except where included in a comparable market analysis, Realcomp approved IDX sites and Realcomp approved VOW sites. Off market listings other than "Sold" listings are intended for the sole use of REALTORS® and may not be provided to home buyers or home sellers except where included in a comparable market analysis. (Amended 2015)
- Section 4.2 Only the "For Sale/Lease" sign of the Listing Participant may be placed on a property.
- Section 4.3 Prior to closing, only the "Sold" sign of the Listing Participant may be placed on a property, unless the Listing Participant authorizes the Cooperating (selling) Participant to post such a sign.
- Section 4.4 Participants shall not solicit a listing on a currently listed property filed with the MLS unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice and its Case Interpretations. Upon showing a property, anything other than leaving a business card will be interpreted as solicitation.

REFERENCE: 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/lessors to permit their properties to be filed with the MLS 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/lessor 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 MLS by assuring them that other Participants will not attempt to persuade the seller/lessor to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this Section, Listing Participants should be most reluctant to generally disclose the identity of the seller/lessor or the availability of the property to other brokers.

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

Section 4.5 **Use of the Terms MLS and Multiple Listing Service**

No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. *(Added 2008)*

**DIVISION OF COMMISSIONS**

Section 5.0 The Listing Participant shall specify, on each listing filed with the MLS, the compensation offered to MLS participants, for their services with respect to the sale/lease of the real estate covered by such listing. Such offers are unconditional except that entitlement to compensation is determined by the Cooperating Broker's performance as the procuring cause of sale (or lease) or as otherwise provided for in this rule. The Listing Participant's obligation to compensate any Cooperating Participant as the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the Listing Broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the Listing Broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the Listing Broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the Listing Broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the Listing Broker communicated to Cooperating Brokers that the commission established in the listing agreement might not be paid.

In filing a property with the MLS, the Listing Participant is making blanket unilateral offers of compensation to the other potential MLS Cooperating Participants, and shall therefore specify on each listing filed with the MLS, the compensation being offered to the other potential MLS Cooperating Participants. Specifying the compensation on each listing is necessary because the Cooperating Participants have the right to know what his/her compensation shall be prior to his/her endeavor to sell.

The Listing Participant retains the right to determine the amount of compensation offered to other Participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) which may be the same or different.

This Section 5.0 shall not preclude the Listing Participant from offering any Cooperating Participant compensation other than the compensation indicated on the listing published by MLS provided that the Listing Participant informs the other potential Cooperating

Participants in writing in advance of submitting an offer to purchase, and provided further that the modification to the specified compensation is not the result of any agreement among all or any other participants in the MLS. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 2010)

The MLS may not require the Listing Participant to disclose the amount of total negotiated commission on the listing which has been submitted to the MLS. The MLS shall not disclose the total commission negotiated between the seller/lessor and the Listing Participant.

The compensation information to be published shall clearly inform all Participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the Listing Participant in writing in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

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

The Listing Participant may, from time to time, adjust the prospective compensation being offered to other MLS participants with respect to any listing which is still open and valid by advance written notice to the MLS which information shall be promptly added to the MLS published data with respect to the relevant listing.

The MLS shall make no rule on the division of commissions between Participants and non-participants. This shall remain solely within the lawfully exercised discretion of the Listing Participant.

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. (Amended 2010)

#### Section 5.0.1 Disclosing Potential Short Sales

Participants must disclose potential short sales when reasonably known to the listing participants. 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. 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. All confidential disclosures and confidential information related to short sales must be communicated through "Agent Remarks" available only to participants and subscribers (*Adopted 5/2008*)

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

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

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

Section 5.3 The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/lessor 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/lessor 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/lessor) shall be disclosed by the Listing Broker by a key, code, or symbol as required by the MLS. (Sec. 5.5) 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/lessor. 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.

Section 5.4 The offer of bonus compensation shall be disclosed by the applicable symbol required by the MLS or displayed in the "Remarks" portion of the Profile form. (Sec. 5.5)

Section 5.5 **COMPENSATION ARRANGEMENTS**

"B"	Bonus	"D"	Dual
"V"	Variable	"E"	Exclusion

**DEFINITIONS:**

**BONUS** = Bonus (over and above compensation offered) is being offered to the selling Participant.

AP&T: Bonus based on Accepted Price and Terms  
FP&T: Bonus based on Full Listing Price and Terms

**DUAL** = One in which the seller/lessor 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 Participant, or one in which the seller/lessor agrees to pay a specified commission if the property is sold/leased by the Listing Participant either with or without the assistance of a Cooperating Participant and a different commission if sale/lease results through the efforts of seller/lessor.

**VARIABLE** = One percentage of compensation is offered on a portion of the final selling price and a different percentage(s) is offered on the remaining portion.

**EXCLUSION** = Certain parties (which may include buy-out corporations) are excluded from the listing. No compensation if sold to one of these parties.

**SERVICE CHARGES**

Section 6.0 The Participant shall be responsible for MLS fees and charges to the extent such

responsibility is mandated in Subscription/Service Agreement.

## **COMPLIANCE WITH MLS RULES**

Section 7.0 By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (*Adopted 2008*)

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

Section 7.1 The following action may be taken for noncompliance with the rules:

(a) For failure to pay any service charge or fee within one (1) month of the statement date, and provided that at least ten (10) days written notice has been given, the MLS shall be suspended until service charges or fees then owing are paid in full unless special forbearance is granted to the defaulting Participant by the Realcomp II Ltd Board of Governors.

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

Section 7.2 **Applicability of Rules to Users and/or Subscribers**

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the

participant to the same or other discipline. This provision does not eliminate the participant's ultimate responsibility and accountability for all users or subscribers affiliated with the participant.

## **MEETINGS**

Section 8.0 The meetings of the Participants of the Service or the Board of Governors of the Multiple Listing Service for the transaction of business of the Service shall be held in accordance with the provisions of the bylaws of the Service.

## **ENFORCEMENT OF RULES AND DISPUTES**

Section 9.0 The Board of Governors of Realcomp II Ltd or a committee empowered by the Board shall give consideration to all written complaints having to do with violations of the Rules and Regulations.

Section 9.1 If the alleged offense is a violation of the Rules and Regulations of the MLS and does not involve a charge of alleged violation of one or more of the provisions of Section 16 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the Board of Governors of the MLS or a committee appointed by the Board. If a violation is determined, the Board of Governors or a committee appointed by the Board may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the appropriate Shareholder Board/Association in accordance with the Bylaws and Rules and Regulations of the Shareholder Board/Association of REALTORS® within twenty (20) days following receipt of the Governors' decision. If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing may be appealed to the Board of Governors of the MLS within twenty (20) days of the tribunal's decision. Alleged violations of Section 16 of the rules and regulations shall be referred to the Professional Standards Committee of the Board of REALTORS® for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®. (Revised 8/2013)

Section 9.2 **Complaints of Unethical Conduct:** All other complaints of unethical conduct shall be referred by the Board of Governors of the MLS to the applicable Shareholder Board/Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's bylaws.



**REALCOMP II LTD. MLS  
SUMMARY OF MLS CHARGES**

<b><u>SEC.</u></b>	<b><u>VIOLATION</u></b>	<b><u>FINES</u></b>
Rules and Regulations:		
1.0	Failure to submit listing profile form	\$75.00
1.0	Late Listing	
	First Occurrence	\$37.50
	Second Occurrence	\$75.00
	Third Occurrence	\$150.00
	Fourth Occurrence	\$500.00
	In addition, the fourth occurrence will result in a requirement that the agent appear before the MLS User Committee to offer an explanation for the continued violation of the rule and a suspension of services for a period to be determined by the MLS User Committee.	
1.3	Failure to submit office exclusive or "Do not publish" listing	\$25.00
1.2	Incomplete/Incorrect listing <b>(Each field of missing information is chargeable by the following amount:)</b>	\$10.00
1.6, 1.11& 2.5	Failure to disclose contingency and/or changes	\$75.00
1.7 & 2.7	Late sold	\$37.50
2.7	Late pending	\$37.50
2.6	Failure to report a pending	
	First Occurrence	\$50.00
	Second Occurrence	\$100.00
	Third Occurrence	\$250.00
	<b>and</b> suspension of broker lead privileges	
	Occurrences are tallied by agent during each rolling 12-month period. (REVISED 2008)	
5.3	Dual or variable commission arrangements not identified	\$50.00
10.0	Failure to maintain confidentiality	
	1st occurrence -	\$5,000
	2nd occurrence -	\$10,000

**REALCOMP II LTD. MLS - SUMMARY OF MLS CHARGES**

**SEC. VIOLATION** **CHARGES**

Policy Handbook:

3I	Sharing passwords	First Occurrence \$5,000 Second Occurrence \$10,000 Subsequent occurrences will be fined and reviewed by the Realcomp Rules & Policy Committee and may result in additional sanctions, up to and including removal from the MLS.	
4D	Submission of a listing change without an authorized signature in conflict with MLS Rules and Regulations		\$100.00
4J	Updating a listing on third party websites and not updating the listing on the MLS	First Occurrence \$100.00 Second Occurrence \$150.00 Third Occurrence \$250.00 Fourth Occurrence requires an appearance before the MLS User Committee	
4K	Failure to upload a photo within 7 days The listing will continue to be fined at \$50.00 per week until a photo is uploaded, even if it goes off-market. (Added 2015)	Initial fine	\$25.00
4O	Failure to include a required buyer fee in the Public Remarks of a listing (Added 2011)		\$500.00
4Q	Site condo and Coop listings that are not designated as such on the listing profile		\$50.00
4R	Vacant land build jobs not identified as such		\$25.00
4S	All square footage below grade shall be listed in the Lower Level Finished Square Feet section of the profile form only, and not included in the approximate above grade square footage. Incorrectly identified square feet or failure to respond to written request regarding square feet identification will result in the following fines. Occurrences are tallied by agent during each rolling 12-month period.	First Occurrence \$50.00 Second Occurrence \$100.00 Third Occurrence \$150.00 Fourth Occurrence \$250.00 <b>and</b> suspension of broker load privileges for a 12-month period.	
	Finished areas in lower levels of any house which are at least five feet above grade level on all sides and are finished to the same quality level as all other areas of the house including heating, electrical and plumbing systems may be included in both the room count and approximate above grade square footage areas of the profile form. Failure to adhere to the above is finable per occurrence.		
4V	Inclusion of personal information in listing, photo or virtual tour	First Occurrence \$50.00 Second Occurrence \$100.00 Third Occurrence \$250.00 <b>and</b> suspension of broker load privileges	
	Occurrences are tallied by agent during each rolling 12-month period.		

4Z	Failure to correctly identify Limited Service, Exclusive Agency or MLS Entry Only listings	
	First Occurrence	\$250.00
	(Listing will be updated with the proper flag)	
	Second Occurrence	\$1000.00
	Third Occurrence	\$2500.00
	Fourth Occurrence will result in 45 day suspension from service for the entire office	
	Fifth Occurrence will result in dismissal from service.	
	Occurrences are tallied by office during each rolling 12-month period. (REVISED 2006)	
4AB	Failure to correctly indicate Ownership status on listing	
	First Occurrence	\$50.00
	Second Occurrence	\$100.00
	Third Occurrence	\$250.00
	<b>and</b> an appearance before the MLS User Committee	
	Occurrences are tallied by agent during each rolling 12-month period.	
	Short Sale field incomplete or incorrectly marked	
	First Occurrence	\$50.00
	Second Occurrence	\$100.00
	Third Occurrence	\$250.00
	<b>and</b> an appearance before the MLS User Committee	
	Occurrences are tallied by agent during each rolling 12-month period.	
4AC	Lockbox violation (Revised 2016)	
	First Occurrence	\$1,000
	<b>and</b> the agent must submit a letter to Realcomp acknowledging the importance of this policy	
	Second Occurrence	\$2,500
	<b>and</b> an appearance before the Rules & Policies Committee	
	Third Occurrence	\$5,000
	<b>and</b> a 30 day suspension from the MLS	
	Fourth Occurrence	Expulsion from the MLS
4AF	Failure to upload disclosures and documents	\$25.00
4AH	Manipulation of MLS Data (Added 2016)	
	First Occurrence	\$250
	Second Occurrence	\$1,000
	Third Occurrence	\$5,000
	<b>and</b> an appearance before the Rules & Policies Committee. Failure to appear before the Committee may result in a 30 day suspension from the MLS.	
5F	Falsely reporting the Listing Office/Agent as the Selling Office/Agent	
	First Occurrence	Warning
	Second Occurrence	\$50.00
	Third Occurrence	\$250.00
	Fourth Occurrence	\$500.00
	Fifth Occurrence	\$1000.00
	For each subsequent occurrence during a two year period, which begins with the first occurrence, the fine amount would double from the previous fine.	
5F	Falsely reported a listing as sold when the sale never took place	
	Appearance before the MLS User Committee and fine up to \$1500	
6A	Failure to remove "broker tour" from tour list within 1 hour prior to the scheduled inspection	\$25.00

The fine schedule published above may be revised from time to time by the Realcomp II Ltd. Board of Governors.

## **CONFIDENTIALITY**

Section 10.0 **CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the MLS to the Participants shall be considered official information of the MLS. 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 MLS is the language communicated and filed by the Listing Participant with the MLS without change by the MLS. The MLS does not verify such information and disclaims any responsibility for its accuracy. Further, each Listing Participant shall review their respective listings for transpositional errors at their earliest convenience and report such errors to the MLS for corrections. Each Participant agrees to hold the MLS harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides or such information as is entered into the MLS by Realcomp II Ltd. or the Listing Participant.

Section 10.2 The applicable laws of confidentiality and copyright shall govern and override any provisions of these rules which contradict such laws.

## **OWNERSHIP OF MLS COMPILATIONS\* AND COPYRIGHTS**

Section 11.0 By the act of submitting any property listing content to the MLS, the participant represents that he has been authorized to ~~grant~~ license and also thereby does ~~grant~~ license authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property. (Revised 2016)

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

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

To qualify for this safe harbor, the OSP must:

- (1) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
- (2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- (3) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain

location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.

(4) Have no actual knowledge of any complained-of infringing activity.

(5) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.

(6) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP's copyright infringement liability. For more information see 17 U.S.C. §512.

Section 11.1 All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the MLS and Shareholder Boards/Associations and in the copyrights therein, shall at all times remain vested in the Shareholder Boards/Associations which are the Shareholders of Realcomp II Ltd. which operates the MLS.

Section 11.2 Each participant shall be entitled to lease from Realcomp II Ltd. a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed and certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the MLS. Participants shall acquire by such lease only the right to use the MLS compilation in accordance with the rules.

*\*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.*

### **USE OF COPYRIGHTED MLS COMPILATIONS**

Section 12.0 **DISTRIBUTION:** Participants (or individuals affiliated with Participants) who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property shall at all times maintain control over and responsibility for each copy of any MLS compilation furnished to them by MLS, and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as licensees except as permitted in Section 12.1, 12.2 and Section 13.0 below.

Section 12.1 **DISPLAY:** Participants and those individuals affiliated as licensees with such Participants shall be permitted to display the MLS compilation data to prospective sellers/lessors or purchasers only in conjunction with their ordinary business activities of attempting to obtain listings or to locate 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 under the following circumstances:

Participants or their affiliated licensees may reproduce from the MLS compilation, and distribute to prospective sellers/lessors or purchasers only, a reasonable\* number of single copies or property listing data contained in the MLS compilation which relate to any properties in which the prospective sellers/lessors or purchaser 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 valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Amended 05/14)

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

## **USE OF MLS INFORMATION**

Section 13.0 **LIMITATIONS ON USE OF MLS INFORMATION:** Use of information from the MLS compilation of current listing information, from the Shareholder Board or Association "Statistical Reports" or from any "sold" or "comparable" report of the Boards, Associations or MLS for public mass media advertising by an MLS Participant or in other public representations may not be prohibited.

However, any advertisement or other forms of public representations based in whole or in part on information supplied by the Shareholder Boards/Associations and/or their members or MLS must clearly demonstrate the period of time over which such claims are based and must include the following notice:

Based on information from the Board/Association of REALTORS® (alternatively, from the Realcomp II Ltd. MLS) for the period (date) through (date).

Sold listings are intended for the sole use of REALTORS® and may not be provided to home buyers or home sellers except where included in a comparable market analysis, Realcomp approved IDX sites and Realcomp approved VOW sites. Off market listings other than “Sold” listings are intended for the sole use of REALTORS® and may not be provided to home buyers or home sellers except where included in a comparable market analysis. (Amended 2015)

### **CHANGES IN MLS RULES AND REGULATIONS**

- Section 14.0 Amendment to these Rules and Regulations shall be subject to the procedures outlined in the Bylaws of the Realcomp II Ltd which operates the MLS.
- Section 14.1 Any duly adopted amendments to these Rules and Regulations shall be provided to subscribing Shareholder Boards/Associations (Master Participants in the Subscription/Service Agreement) and their affiliated Participants upon adoption.

### **ARBITRATION OF DISPUTES**

- Section 15.0 By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS Participants in different firms arising out of their relationships as MLS Participants, subject to the following qualifications.
- (a) If all disputants are members of the same Board of REALTORS® or have their principal place of business within the same Board's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS®.
  - (b) If the disputants are members of different Boards of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different Boards of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the Michigan Association of REALTORS®.

**Interboard Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the National Association of REALTORS®. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS®.

### **STANDARDS OF CONDUCT**

- Section 16.0 Standards of Conduct for MLS Participants:
- Section 16.1 MLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS Participants have with clients.
- Section 16.2 Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

- Section 16.3 MLS Participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.
- Section 16.4 MLS Participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS Participant, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS Participant may contact the owner to secure such information and may discuss the terms upon which the MLS Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.
- Section 16.5 MLS Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS Participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.
- Section 16.6 MLS Participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers.
- Section 16.7 The fact that an agreement has been entered into with an MLS Participant shall not preclude or inhibit any other MLS Participant from entering into a similar agreement after the expiration of the prior agreement.
- Section 16.8 The fact that a prospect has retained an MLS Participant as an exclusive representative agent or exclusive broker in one or more past transactions does not preclude other MLS Participants from seeking such former client's future business.
- Section 16.9 MLS Participants are free to enter into contractual relationships or to negotiate with seller/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.
- Section 16.10 When MLS Participants are contacted by the client of another MLS Participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.
- Section 16.11 In cooperative transactions, MLS Participants shall compensate cooperating MLS Participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS Participants without the prior express knowledge and consent of the cooperating broker.
- Section 16.12 MLS Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive



relationships with another MLS Participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this rule.

**The following types of solicitations are prohibited:**

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

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

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

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

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

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

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

Section 16.18 MLS Participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives, or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

Section 16.19 All dealings concerning property exclusively listed or with buyer/tenants who are

subject to an exclusive agreement shall be carried on with the client's representative or broker and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS Participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. (Adopted 1/03)

Section 16.20 Participants, users, and subscribers, prior to or after ~~terminating~~ their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Revised 8/2013)

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 other real estate professionals, their businesses, or their business practices.

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

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner. (Adopted 11/07)

Section 16.24 MLS participants shall present a true picture in their advertising and representations to the public, including Internet content posted, and the URLs and domain names they use, and participants may not:

- a. engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. manipulate (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result;
- c. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic.
- d. present content developed by others without either attribution or without permission; or
- e. otherwise mislead consumers. (Amended 1/2013)

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

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

assistance shall be so identified to the client and their contribution to the assignment should be set forth. (Added 8/2013)

## **ORIENTATION**

Section 17.0 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 eight (8) classroom hours devoted to the MLS Rules and Regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided.

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated additional training remotely. (*Adopted 11/09*)

## **IDX RULES AND REGULATIONS**

- Section 18      **IDX Defined:** IDX affords MLS participants the ability to authorize limited electronic display of their listings by other participants. *(Amended 5/2012)*
- Section 18.1    **Authorization:** Participants’ consent for display of their listings by other participants pursuant to these rules and regulations must be established in writing. If a participant withholds consent on a blanket basis to permit the display of that participant’s listings, that participant may not download, frame or display 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 where the seller has prohibited all Internet display. *(Amended 5/2012)*
- Section 18.2    **Participation:** Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. *(Amended 11/2009)*
- Section 18.2.1   Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 5/2012)*
- Section 18.2.2   MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. *(Amended 5/2012)*
- Section 18.2.3   Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing’s property address from all display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs). *(Amended 5/2012)*
- 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. *(Amended 11/06)*
- Section 18.2.5   Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every 12 hours. *(Amended 11/14)*
- Section 18.2.6   Except as provided in the IDX policy and these rules, an IDX display or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. *(Amended 5/2012)*
- Section 18.2.7   Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify, and update information as required by the IDX policy and MLS rules. *(Amended 5/2012)*

- Section 18.2.8 Any IDX display controlled by a participant or subscriber that
- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by the participant. Except for the foregoing and subject to Section 18.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller (*Amended 5/2012*)

- Section 18.2.9 Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (*Amended 5/2012*)

- Section 18.2.10 An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

- Section 18.2.11 Participants shall not modify or manipulate information relating to other participants' listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. (Added 2016)

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

- Section 18.3.1 The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in Realcomp and limited to those Participants licensed as real estate brokers.

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

- Section 18.3.3 A summary display must include the required text data about the property and the logo of the listing broker or the Realcomp approved logo, and may include a photo of the property and links for additional information. If the Participant has chosen to provide links for additional information, i.e., a detailed view of a listing, then a detail view must be available for every listing on that Participant's display. If the Participant has chosen not to provide links for additional information, then the Listing Office Name and Originating MLS must be displayed in the summary display for every listing.
- Section 18.3.4 All IDX displays must include the Participant's office name as licensed, as required by Michigan State Law.
- All IDX listing detail displays must include the Realcomp copyright and MLS credit as follows: "IDX provided courtesy of Realcomp II Ltd. via {{site owner}} and {{listing's originating MLS}}, ©2016 Realcomp II Ltd. Shareholders".
- IDX Search results producing a detailed display of another Participant's listing shall include that Participant's office name, the Realcomp approved logo, and the Realcomp copyright notice (as detailed above) immediately following the property information.
- The Participant's name, Realcomp approved logo, and copyright notice shall be in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 5/2012)
- ~~Section 18.3.5 Listing information downloaded and/or otherwise displayed pursuant to IDX shall be limited to properties listed on an exclusive right to sell basis. (deleted 2010)~~
- Section 18.3.6 Any search result identifying another Participant's listing in the summary format shall bear the Realcomp approved icon or be present adjacent to the property information to identify the listing as a Realcomp listing.
- Section 18.3.7 The Realcomp approved logo and an explanation of those properties marked with the logo are provided courtesy of Realcomp. The term "IDX" must appear on the first page where any listing data is displayed. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 5/2012)
- Section 18.3.8 Participants (and their affiliated licensees, if applicable) shall indicate on their display 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 consumers may be interested in purchasing and that the data is deemed reliable but not guaranteed accurate by the MLS. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 5/2012)
- Section 18.3.9 The data consumers can retrieve or download in response to any inquiry shall be limited to 250 listings per search.
- Section 18.3.10 Listings obtained through IDX feeds from Realtor® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each

such listing was obtained. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 11/14)

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

**Section 18.3.11 Display of expired or withdrawn listings is prohibited. (Amended 2016)**

Section 18.3.12 The IDX display will include a link to a virtual tour if available on the property. The virtual tour must be a non-branded version in order to be linked through IDX. A Participant participating in Realcomp's IDX RETS program may display branded virtual tours for their own listings. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 5/2012)

Section 18.3.13 A summary display of another Participant's listing may not include any contact information or branding of the IDX participant who owns the IDX display or any of its agents.

Section 18.3.14 A detailed display of another Participant's listing may not include any contact information or branding of the Participant who owns the Web site or any of its agents within the body of the listing data. The body is defined as the rectangular space whose borders are delimited by the utmost extent in each direction of the listing text and photo data.

Section 18.3.15 Any result identifying another Participant's listing shall include the disclaimer "The accuracy of all information, regardless of source, is not guaranteed or warranted. All information should be independently verified." In practice, all Brokers will want to display this disclaimer on their own listings as well, unless their legal counsel advises otherwise.

Section 18.3.16 A Participant/agent displaying the IDX Database or any portion thereof shall:

- i. Prominently post notice that "Any use of search facilities of data on the site, other than by a consumer looking to purchase real estate, is prohibited."
- ii. Maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes that the IDX site has caused or permitted a breach in the security of the data or a violation of the MLS rules related to use by consumers. (Revised 8/2013)

Section 18.4 No portion of the IDX database shall be used or provided to a third party for any purpose other than those expressly provided for in these rules.

Section 18.5 In order to participate in IDX, a site must be marketed and branded to the brokerage and must be controlled by a Participant/agent. If Participants/agents choose to use a third party to build their displays, they may, as long as the websites are most prominently identified as belonging to the brokerage firm. It's acceptable for the third party company to have a notice at the bottom of every page that says "Powered by (Vendor Name)". But,

the Vendor Name must not brand any of these displays in such a way as to suggest that they control it. For example, a big banner across the top of the page with BigRealEstateVendor.com's name is a problem, even if it identifies the brokerage underneath.

Section 18.6 IDX is available to Participants and their agents that are full subscribers to Realcomp's services.

Section 18.7 Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own Web sites subject to their participant's consent and control and the requirements of state law and/or regulation. (Added 2/2016)

Section 18.8 A Participant/agent must ensure their site(s) are in compliance with Realcomp's rules at all times. A Participant/agent choosing to display IDX listings from Realcomp's data share partners, which are included in the data feed, must also insure the data share listings comply with all rules from the listing's originating MLS.

A Participant/agent must make changes to its behavior or to its display necessary to cure a violation of Realcomp's rules, or the rules of Realcomp's data share partners, within five business days of notice from Realcomp of the violation. Any Participant/agent found to be in violation of the MLS/IDX.

Rules and Regulations faces the following sanctions:

- i. 1<sup>st</sup> offense - Written warning requiring for immediate remedy to offense;
- ii. 2<sup>nd</sup> offense - \$2,500 fine along with written notice requiring immediate remedy to offense;
- iii. 3<sup>rd</sup> offense - \$5,000 fine along with written notice requiring immediate remedy to offense;
- iv. 4<sup>th</sup> offense - Thirty (30) day suspension of MLS privileges for entire office along with written notice warning of termination of MLS privileges should offense be found again;
- v. 5<sup>th</sup> offense - Termination of MLS privileges.

Section 18.9 Any Participant/agent using a third party to develop/design its display will have a written agreement with Realcomp and that third party in the form prescribed by Realcomp.

Section 18.10 When including pending or sold data in IDX, only the primary photo may be shown on pending or sold listings. (Added 2015)



## **Section 19 Virtual Office Websites (VOWs)**

### **Section 19.1 VOW Defined**

- a. A “Virtual Office Website” (VOW) is a participant’s Internet website, a feature of a participant’s website, or display via mobile or electronic device through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b. As used in Section 19 of these rules, the term “participant” includes a participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “participant’s consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, mobile and electronic device displays, 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 site with links to the VOWs of the other offices.
- b. Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX).
- c. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant’s VOW.

### **Section 19.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
  - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required

- by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
- i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
  - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
  - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
  - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database
- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.

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

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

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

Section 19.6

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

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

#### **Seller Opt-out Form**

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

\_\_\_\_\_  
Initials of Seller

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

Section 19.7

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

Section 19.8

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

Section 19.9

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

Section 19.10

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

Section 19.11

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

Section 19.12

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

Section 19.13

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

Section 19.14

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

Section 19.15

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

- a. expired, and withdrawn, or pending ("under contract")-listings
- b. the compensation offered to other MLS participants

- c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property
- ~~f. sold data~~ (Amended 2015)

- Section 19.16 A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.
- Section 19.17 A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.
- Section 19.18 A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.
- Section 19.19 A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 500 current listings and not more than 500 sold listings in response to any inquiry.
- 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 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 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 Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.