

**CAPITAL AREA ASSOCIATION OF REALTORS®**

# **MULTIPLE Information SERVICE**

## **RULES AND REGULATIONS**

**Revised and Effective**  
June 12, 2012

# **CAPITAL AREA ASSOCIATION OF REALTORS®**

## **MIS RULES & REGULATIONS**

### **SECTION I**

#### **NAME AND PURPOSE.**

- A. The name of this organization shall be, "CAPITAL AREA MULTIPLE INFORMATION SERVICE" and the letters "MIS" hereinafter mentioned shall mean Multiple Information Service.
- B. Purpose. The Multiple Information Service shall be, by definition, a service of the Capital Area Association of REALTORS® whereby authorized participants ("participant" referred to herein refers to designated broker and "users" referred to herein refers to licensed sales agents) make blanket unilateral offers of compensation to other participants (acting as buyer agents, or in other agency or non agency capacities defined by law); by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analysis, and other valuations of real property for bonafide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).
- C. MLS Antitrust Compliance Policy. The Multiple Information Service of the Capital Area Association of REALTORS® shall conform to the MLS Antitrust Compliance Policy adopted November 15, 1971 by the NATIONAL ASSOCIATION OF REALTORS®, reproduced as Appendix A, as amended November 2004.

### **SECTION II**

#### **PARTICIPATION.**

- A. Eligibility for participation in the MIS shall consist of the following requisites:
  - 1. Participation: Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these rules, shall be eligible to participate in the MIS upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.\* However, under no circumstances is any individual or firm, regardless of membership status, entitled to MIS "membership" or "participation" unless they hold a current, valid real estate broker's license and offer or accept 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 a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law. (Amended 11/08)

*Note: Mere possession of a broker's license is not sufficient to qualify for MIS 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 MIS and/or to accept offers of*

*cooperation and compensation made by listing brokers or agents in the MIS. "Actively" means on a continual and on-going basis during the operation of the Participant's real estate business. The „actively" requirement is not intended to preclude MIS 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 MIS 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 MIS 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.*

*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 MIS in which participation is sought. This requirement does not permit an MIS 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 MIS 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 MIS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)*

2. Submission of a completed application on forms provided by the MIS.
3. Payment of the initial Participation fee and any recurring fees as set forth in Section VII below.
4. Any applicant for MIS Participation and any licensee affiliated with an MIS Participant who has access to and use of MIS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MIS rules and regulations and computer training related to MIS information entry and retrieval and the operation of the MIS. The time-frame within which orientation shall be completed and the specific content and length of the orientation program shall be recommended by the MIS Committee and approved by the Board of Directors.
5. With respect to amendments to these rules, as outlined in Section XIII (Amendments), there shall be one vote per MIS Participant. There shall only be one MIS Participant per member firm. In situations where the MIS Participant is waived out of the MIS under Section VII (C) that MIS Participant shall forfeit his or her right to vote as long as said waiver is in effect. *(Amended 09/25/08)*
6. Transfer of Participation:
  - a. Participation cannot be sold with the business.
  - b. Participation is nontransferable except under the following conditions:
    - i. In the event of a change of firm name without changing the ownership of the organization affected.
    - ii. In the event of the death or retirement of an individual participant and continuation of the business with substantially the same personnel, the participation may be transferred to another member of the firm, if such member is a REALTOR®

Member in good standing as set forth in subsection A above.

- c. Participants resigning from MIS and applying for reinstatement at a later date must pay the participation application fee in force at the time of application for reinstatement. Sickness or hardship cases shall be dealt with on an individual basis by the MIS Committee.
  - d. No transfers of participation shall be allowed until all indebtedness to MIS is paid in full as provided in these Rules.
  - e. In the event any participant sells or closes his business, and becomes associated with or officed with another broker who is not an MIS participant, such participation shall be terminated.
  - f. In the event any participant sells or closes his business and becomes associated with another broker who is a participant, but in a non-owner capacity, his participation shall be forfeited. However, if within 24 months following such change in status such individual once again takes on an ownership (sole ownership) capacity that person may again become a Participant at no additional cost. This option is not available to any company that cancels its MIS participation while continuing in the practice of real estate brokerage. A Participant shall be allowed to exercise this 24 month option once.
- B. Participant understands that by providing the MIS with Participant's mailing address(es), email address(es), telephone number(s), and fax number(s), Participant consents to receive communications, advertisements and solicitations sent by or on behalf of the Capital Area Association of REALTORS®, its subsidiaries and affiliates, namely the Illinois Association of REALTORS®, and the NATIONAL ASSOCIATION OF REALTORS® via U.S. mail, email, telephone, or facsimile at those number(s)/location(s) provided.
- C. Participants and Users in the Commercial Real Estate Network (CREN) of CAAR are entitled to conduct searches of any and all property types contained in the MIS so long as that Participant's company is also a Participant in the MIS. Likewise, MIS Participants and users shall be entitled to conduct searches of property listings in the CREN property type. *(Amended 09/25/08)*
- D. Upon approval of the Board of Directors the MIS shall exercise the authority to, from time to time, enter into reciprocal agreements with neighboring MIS's to allow, on a reciprocal basis, Participants of those neighboring MIS's to list properties in the Capital Area MIS.
- E. Upon approval of the Board of Directors the MIS shall exercise the authority to establish policies which would outline alternate terms and conditions under which the "Participant" of another MIS could access the Capital Area MIS, including the ability to make offers of cooperation and compensation.

### **SECTION III**

#### **OPERATIONS.**

- A. The operations and activities of MIS will be in conjunction with the Bylaws of the Capital Area Association of REALTORS® and is open to all REALTOR® members who are principals in their firms, partnerships, or corporations. Any exceptions to the Capital Area Association of REALTORS® Bylaws are herein set forth.
- B. The MIS Committee shall handle all transactions pertaining to contracts for such services that are required or needed now or in the future, subject to final approval by the Board of Directors of the Capital

Area Association of REALTORS®. All checks drawn from the funds of MIS that are greater than \$100 shall be countersigned.

- C. All grievances shall be directed to the Capital Area Association of REALTORS® in accordance with the Bylaws of the Capital Area Association of REALTORS®.
- D. The MIS Chairman shall appoint, from time to time, those subcommittees deemed necessary to carry out tasks related to the MIS Committee.

## **SECTION IV**

### **LISTING PROCEDURES.**

- A. Capital Area Multiple Information Service agrees to maintain, for the benefit of its participants, a listing exchange consisting of all real property listed as an exclusive agency or an exclusive right to sell or lease with individuals who participate in the Multiple Information Service.
  - 1. The MIS shall accept exclusive right to sell or lease listing contracts and exclusive agency listing contracts, and may accept other forms of agreement that are in compliance with these rules and which make it possible for the listing broker to offer cooperation and compensation to other Participants of the MIS acting as cooperating agents. The MIS shall not accept net listings nor open listings.
    - a. Exclusive right to sell listings. The exclusive right to sell listing is the conventional form of listing submitted to the MIS in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.
    - b. Exclusive agency listings. The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.
  - 2. Exclusive agency listings and exclusive right to sell or lease listings with named prospects exempted should be clearly distinguished from exclusive right to sell listings with no named prospects exempted. Under the category "listing type" in the MIS and on the property data form the letters "EA" denote exclusive agency listings, the letters "ER" denote exclusive right to sell or lease listings, and the letters "RP" denote an exclusive right to sell or lease listing with named prospects exempted.
- B. If the owner elects not to place the property in MIS which falls under one of the property types set forth in subsection I(1) below, the Participant shall forward to the MIS a dated statement signed by the owner(s) confirming his decision not to place his property in MIS. This shall be known as an "office exclusive" listing. This form shall be filed with the MIS office within the required 48-hour pre-notice period. The 48-hour pre-notice period shall mean within 48-hours after the marketing period becomes effective, or the sign has been placed in the yard or the property has been advertised, whichever occurs first, with the exception that listings taken on a Friday, with a marketing period that is effective that same day, shall be received by the MIS office by the end of the next business day. Upon filing of the election not to list the property in MIS, the MIS office shall immediately send a form letter to the owner acknowledging the owner's decision and suggesting that if the owner should later change his mind and wish to place the property in MIS, he should advise his REALTOR® in writing.
- C. Listing Agreements and Property Data Forms.

1. No property listed shall be filed with the MIS unless the participant offering the same shall have a written contract on a form that is in full compliance with these MIS rules granting him or her the exclusive right to sell, or exclusive agency, or otherwise dispose of the said property for a definite period of time and duly executed by the owner.
2. The MIS shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the MIS, although a "Property Data Form" may be required as approved by the MIS. However, the MIS through its legal counsel may:
  - a. Reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants.
  - b. Assure that no listing form filed with the MIS establishes, directly or indirectly, any contractual relationship between the MIS and the client (buyer or seller).
3. Approved MIS listing agreements shall meet the following requirements:
  - a. The listing form shall include a provision expressly granting the listing broker authority to file the listing with the MIS and to provide sales information including selling price to the MIS upon sale of the property.
  - b. The full gross listing price or lease amount shall be stated in the listing agreement.
  - c. The listing form shall comply with the Real Estate License Act of 2000 and the rules for its administration.
4. A listing agreement or property data form, when entered into the MIS or filed with the MIS by the listing broker, shall be complete in every detail which is ascertainable as specified on the Property Data Form.
5. Any and all MIS approved forms will be made available to participants at cost. All MIS forms are copyrighted by the Capital Area Association of REALTORS® and are for the express use of MIS participants and users only.
6. The MIS reserves the right to request a copy of a Participant's listing agreement at any time to ensure compliance with these MIS rules.

D. Auction Listings

1. Auction listings must be taken by Participant as Exclusive Right to Sell or Exclusive Agency and meet all other listing requirements established in Section 1 of these Rules and Regulations. The listing company must indicate on the first line of remarks:
  - a. Auction date
  - b. whether the sale is Reserved (a minimum price is set that the seller is willing to accept for a property to be sold at auction. Seller or seller's agent reserves the right to accept or decline any and all bids.) or Absolute (property is sold to the highest qualified bidder with no limiting conditions or amount).
  - c. The disclaimer indicating "Property will bring what market bears."
  - d. The requirement that the property be available to show at inception does not extend to auction listings, however, the Participant shall note in the remarks whether the property is available to show and whether the seller will accept pre-auction offers.
  - e. If a buyer's premium is to be charged by the auctioneer then that amount must be disclosed in the remarks.

2. Listing Price Specified. The full gross listing price stated in the listing contract will be included in the information published in the MIS compilation of current listings, unless the property is subject to auction. In the case of an auction property, it is understood that the "seller reserves right to reject any bid". The remarks section of the listing must include consideration for a reserve or absolute sale.

E. MIS is not responsible for accuracy of information. The information published and disseminated by the MIS is communicated verbatim, without change, by the Service, as filed with the MIS or as entered directly into the MIS database by the Participant. The MIS does not verify such information provided and disclaims any responsibility for its accuracy. Each participant agrees to hold the MIS harmless against any and all claims, demands, damages, losses or costs that the MIS or the Association incur arising from any inaccuracy or inadequacy of the information such participant provides. Any Participant that relies on the MIS for entering information into the MIS database shall bear the responsibility for ensuring that the information is entered correctly, and the MIS and the Association shall have no liability for any error or omission of the MIS in entering such information into the MIS database. Each Participant waives any and all claim of liability that said Participant may have against the MIS and the Association arising out of errors made by the MIS in entering data on behalf of the Participant, and Participant shall hold the MIS and the Association harmless from and against any claims, demands, damages or costs incurred by the MIS or the Association arising out of such errors or omissions.  
*(Amended 01/18/06)*

F. Listing Reporting Requirements.

1. All information required on the property data form pertaining to any property listed by any participant in MIS shall be entered into the MIS within the 48-hour pre-notice period. The 48-hour pre-notice period shall mean within 48-hours after the marketing period becomes effective, or the sign has been placed in the yard or the property has been advertised, whichever occurs first, with the exception that listings taken on a Friday, with a marketing period that is effective that same day, shall be received by the MIS office by the end of the next business day. However, no participant may be denied the opportunity to cooperate on such listing during this 48-hour period. The MIS reserves the right to request a copy of any Participant's listing agreement or property data form at any time in regard to a particular property listing. Failure of a Participant to comply with this request within 24 hours may result in the suspension of MIS services or expulsion from MIS upon a hearing by the Professional Standards Committee in accordance with Section XII below.
2. If the listing broker has not entered said listing into the MIS within the 48-hour pre-notice period set forth in Subsection (F)(1) above or delivered the "office exclusive" listing to the MIS office within the 48-hour pre-notice period set forth in Subsection (B) above, the penalty for such failure shall be a late charge of \$50.00. There will be a \$75.00 charge for the second offense, and \$100.00 charge for the third offense for similar violations by the same listing agent within any twelve (12) month period. All fines will be published in the Association's newsletter. Upon discovery of the fourth late listing by the same listing agent during any twelve (12) month period, the Executive Officer shall notify the Chairman of the Grievance Committee of the Capital Area Association of REALTORS® for investigation, and if warranted, referral to the Professional Standards Committee for possible discipline in accordance with Section XII below. *(Amended 09/25/08)*
3. Except where sellers expressly direct that photographs of their property not appear in MIS compilations, property photos shall be included with all residential, income and commercial property listings no later than ten (10) days after the date of the listing entry. Commercial property without buildings is exempt from this requirement. The "to-be-built" residential

subcategory shall also be exempt from this requirement, however, changing from this subcategory to another (i.e., under construction, new construction, etc.) shall trigger this requirement. A \$25.00 fine will be assessed for those applicable property listings that fail to include a photo within the required time-frame.

4. Public remarks (e.g., marketing remarks, directions, etc.) and photo captions must only describe the physical traits of the property. Office, agent, and personal promotion information is prohibited from being included anywhere on the property photo. Public remarks may only describe incentives provided by the seller to the buyer, specifically related to the property with specific purpose and must be in compliance with HUD regulations and guidelines. Incentives may not include a third party or third party reference. Remarks of a promotional nature are strictly prohibited in the public remarks. Except as allowed for in subsection (5) below no URLs are allowed anywhere in the listing. *(Amended 04/10/2008)*

5. Virtual tours.

- a. Unbranded virtual tours. Only Universal Resource Locaters (URLs) to virtual tours may appear in the "unbranded virtual tour" field if the web site only describes the physical traits of the property for sale and its vicinity; does not link out to another web site or page; and, the name of the listing office appears in text not to exceed 10 point font.

- b. Branded virtual tours. Those restrictions outlined in subsection a above shall not apply to URLs to virtual tours that appear in the "branded virtual tour" field.  
*(Effective May 1, 2008)*

6. All foreclosed properties shall be identified as such at the time of submission to the MIS.

G. Property Listing Status Changes.

1. The following statuses, and associated abbreviation, shall apply to all MIS property types:

- a. Active - A
  - b. Withdrawn - W
  - c. Expired - X
  - d. Closed - C
  - e. Pending No Showings - P
  - f. Pending Continue to Show - G
  - g. Temporarily Off Market - K
  - h. Leased - L

2. Final closing of sales (including sale price information) or lease information shall be reported to the Multiple Information Service by the listing broker within seven (7) calendar days after they have occurred. If negotiations were carried on under Section V (Selling Procedures) Subsection C or D hereof, the cooperating broker shall report accepted offers to the listing broker within three (3) calendar days after occurrence and the listing broker shall report them to the MIS within four (4) calendar days after receiving notice from the cooperating broker. This requirement shall not apply to commercial property leases *in instances where the Participant has entered into a written confidentiality agreement with the client precluding the Participant from sharing lease terms with the MIS. The penalty for failure to report sale or lease information shall be a fine of \$50.00 for each occurrence. A broker who is notified in writing of a delinquency under this section shall have seven (7) days to enter said information after which a \$25.00 per day charge will be assessed. All fines will be published in the Association's newsletter. (Amended 09/25/08)*

3.
  - a. Listings filed with the MIS will automatically be removed from the compilation of current



listings on the expiration date specified in the agreement, unless prior to that date the MIS receives notice that the listing has been extended or renewed. If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. Listings filed with the service shall be a definite and final termination date, as negotiated between the listing broker and the seller.

- b. No listing will be cancelled from the MIS until after the initial period has elapsed, unless the listing broker has received written notice from the property owner of such cancellation. The listing broker shall immediately notify the MIS by submitting a properly executed change form signed by the participant or other individual(s) so designated by the participant.
4. A listing in the MIS may be cancelled by the listing broker before the end of the initial period, if in the opinion of the broker it would be in the best interests of all parties concerned that the listing be cancelled. Such listing may be cancelled only upon receipt of written request from the party signing the listing for such cancellation. Upon receipt of such written request, the listing broker may grant the request.
5. The listing broker shall have three business days after a valid binding contract is entered into on a listing to report a change in the status of such listing from active and available ("A") to sale pending ("P or G"). As an exception to the above requirement, valid binding contracts that are contingent on the sale of another property may remain as active and available ("A"), however, a listing broker must still report this "home sale contingency" within three business days after contract execution. The penalty for not doing so shall be a late charge of \$50.00 per offense. *(Revised July 16, 2009)*
6. The listing broker shall report to the MIS within 48 hours the cancellation of any pending sale and the listing shall be reinstated immediately. The penalty for not doing so will be \$25.00 for each occurrence. The consensus of opinion is that a sale has fallen through when earnest money is returned and contract cancelled when financing is not arranged.
7. Whenever an owner lowers the price of a property filed with MIS, it shall be the responsibility of the listing broker to obtain written authorization from the owner(s) and to give written notice to MIS of the new price within 48 hours or be charged \$25.00 for each occurrence.
8. Reporting Resolutions of Contingencies: The listing broker shall report to the Multiple Information Service within 24 hours that a contingency on file with the Multiple Information Service has been fulfilled or renewed, or the agreement cancelled.
9. Status Change Procedures.
  - a. A Participant or individual with "administrator" level access may perform certain status change functions or modify certain data fields as, from time to time, determined appropriate by the MIS Committee and the Board of Directors. *(Amended 01/18/06)*
  - b. Certain status change functions or changes to certain data fields shall be performed only by the MIS office as, from time to time, determined appropriate by the MIS Committee and the Board of Directors. While the MIS strives for complete accuracy, it is ultimately the Participant's responsibility and obligation to ensure that any change request submitted to the MIS is entered correctly into the database as requested. The MIS and the Association shall not be liable for any claims arising from errors or omissions made by

the MIS in the course of processing change requests on behalf of the MIS Participant, and the Participant waives any and all liability claims against the MIS and the Association for any such errors or omissions and shall hold the MIS and the Association harmless from and against any claims, demands, damages, losses or costs incurred by the MIS or the Association arising out of such errors or omissions. *(Amended 01/18/06)*

- c. The MIS office shall not process any status changes without receipt of a properly executed change form signed by the Participant or such individual designated by the Participant. It shall be the responsibility of the Participant to obtain from the owner(s) the necessary written authorization for any status changes.
- 10. Withdrawn and Re-listed Properties. It shall be a violation of these rules to withdraw and re-list a property prior to its expiration date simply for the purpose of generating a more current listing number. For the purposes of this section, unless evidence is provided to the contrary, it will be assumed that any listing withdrawn and re-listed by the same brokerage firm within thirty (30) days of the withdrawn date will be in violation of this policy. *(Added 04/10/2008)*
- 11. Reporting Auction Sales to the Service. Sales of auction properties shall be reported to the MIS by the Participant as a closed sale within the time-frame outlined in Section IV (Listing Properties), paragraph F(1). When reporting an auction sale to the MIS, the auction property is to have the same list price and sale price and the days on market (DOM) should be calculated as one (1). The MIS will make DOM adjustments to the listing based on receipt of the MIS change form.
- H. Advertising of Listing filed with the Service: Any listing filed with the service shall not be made available to any broker or firm not a member of the MIS without the prior consent of the listing broker.
- I. Only the for sale sign of the listing broker may be placed on a property. Prior to closing, only the 'sold' signs of the listing broker may be placed on a property unless the listing broker authorizes the cooperating (selling) broker to post such a sign.
- J. Required, Permitted, and Excluded Properties.
  - 1. The following designated types of real property are required to be submitted to the MIS:
    - a. Single family homes (including condominiums) for sale or exchange;
    - b. Vacant lots and acreage for sale or exchange; and
    - c. Two-family, three-family, and four-family residential buildings for sale or exchange.
  - 2. The following are some types of properties that may be listed through the MIS, including types described in the preceding paragraph that are required to be filed with the MIS and other types that may be filed with the MIS at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's competency and licensure as a real estate broker:
    - a. Residential
    - b. Residential Income
    - c. Subdivided Vacant Lot
    - d. Land and Ranch
    - e. Motel-Hotel
    - f. Commercial Income
    - g. Industrial
    - h. Manufactured Homes (includes Mobile Homes) *(Amended 08/03/10)*

3. Business opportunities. Business opportunities are specifically excluded from the MIS unless there is real estate being sold or leased.
- K. Jurisdiction: Only listings of the designated types of property located within the jurisdiction of the Association of REALTORS® are required to be submitted to the Service. Listings of property located outside of the Association's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service. For the purpose of these rules the jurisdiction of the Capital Area Association of REALTORS® Multiple Information Service shall include the State of Illinois.
- L. For purposes of these rules a residential listing shall be considered as "new" only if the property is newly constructed residential real property that has not been occupied. Only residential property meeting this definition of new may be listed as new.
- M. When entering property listings in the MIS brokers shall refer to and utilize the list of abbreviations as published from time to time by the MIS Committee.
- N. Listings of Suspended and Expelled Participants.
1. Listings of Suspended or expelled Participants: When a participant of the Service is suspended or expelled from the MIS for failure to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, MIS Rules and Regulations, or other Association membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MIS by the suspended or expelled participant shall, at the participant's option, be retained in the MIS until sold, leased, withdrawn or expired, and shall not be renewed or extended by the MIS beyond the termination date of the listing agreement in effect when the suspension or expulsion became effective. If a participant has been suspended or expelled from the Association (except where MIS participation without Association membership is permitted by law) or MIS (or both) for failure to pay appropriate dues, fees or charges, the Association is not obligated to provide MIS services, including continued inclusion of the suspended or expelled participant's listings in the MIS compilation of current listing information. Prior to any removal of a suspended or expelled participant's listings from the MIS, the suspended or expelled participant should be advised in writing of the intended removal so the expelled participant may advise his clients.
  2. Listings of Resigned Participants: When a participant resigns from the MIS, the MIS is not obligated to provide services, including continued inclusion of the resigned participant's listings in the MIS compilation of current listing information. Prior to any removal of a resigned participant's listings from the MIS, the resigned participant should be advised in writing of the intended removal so the resigned participant may advise his clients.
- O. Fines and Failure to Comply with Section IV: The MIS Committee, at its discretion, shall have the ability to assess a fine of up to \$100.00 per occurrence for the failure to follow any reporting requirement under this Section of the MIS Rules provided said fine is not in conflict with other fines specifically set forth in this Section.

## **SECTION V**

### **SELLING PROCEDURES.**

- A. 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.

- B. Listing brokers shall not misrepresent the availability of or access to show or inspect listed property.
- C. Negotiations with the seller for the showing and/or the purchase or lease of listed property filed with the MIS shall be conducted through the listing broker except when the listing broker gives the cooperating broker specific authority to negotiate directly, or after reasonable effort the cooperating broker cannot contact the listing broker or his representative. However, the listing broker, at his/her option, may preclude such direct negotiations by the cooperating broker.
- D. Upon receipt of a signed contract to purchase, the cooperating broker shall first present written notice of the offer, giving date and hour of the offer, to the listing broker. The listing broker shall then promptly submit the offer to the owner, or:
1. The cooperating broker may submit the offer to the owner, with the permission of the listing broker, or
  2. The cooperating broker may have the right to submit the offer to the owner if accompanied by the listing broker, or
  3. The cooperating broker may submit the offer direct to the owner if the listing broker refuses, delays, or procrastinates in joining or accompanying the cooperating broker at reasonable hours in submitting the offer, or is out of the city. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating broker.
- E. For Auction Listings, the Participant must comply with the auction company's terms and procedures of the individual auction.
- F. Submission of Written Offers: The listing broker shall submit to the seller or lessor all written offers until closing, unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller or lessor and the listing broker. Unless the subsequent offer is contingent upon determination of an existing contract, the listing broker shall recommend that the seller or 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 buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.
- G. Right of Cooperating Broker in Presentation of Offer: The cooperating broker or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.
- H. Right of Listing Broker in Presentation of Counter-Offers: 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. 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.
- I. Brokers shall notify MIS at termination, sale pending, lease, or sold and closed, of their office exclusive

listings if same are not to be renewed within 48 hours of their exclusive listing or be charged a fee of \$25.00. All sold and lease information shall be entered into comparable data unless otherwise requested in writing .

- J. Solicitation of Listing Filed With the Multiple Information Service: Participants shall not solicit a listing on property filed with the MIS unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations.
- K. The MIS may establish a policy allowing comparable sales information for transactions outside of MIS to be submitted to the MIS after closing.

## **SECTION VI**

### **DIVISION OF COMMISSIONS.**

- A. Under the long established policy of this Association, the Illinois Association of REALTORS®, and the National Association of REALTORS®:
  - 1. The broker's compensation for services rendered in respect to any listing is solely a matter of negotiation between the broker and his or her client, and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker.
  - 2. The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker in his offer of cooperation and compensation, and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker.
- B. The listing broker shall specify, on each listing filed with the MIS, the compensation offered to other MIS Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that , through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MIS 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 MIS, the participant is making blanket unilateral offers of compensation to the other MIS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MIS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. \* (Amended 11/96)

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

1. by showing a percentage of the gross selling price
2. by showing a definite dollar amount (Amended 05/10)

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

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

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

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

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

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

- C. Participants must disclose potential short sales (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 reasonably known to the listing participants. Further, 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 three (3) business days of receipt of notification from the lender. *(Added 07/14/08, Amended November 19, 2010, Amended March 15, 2011)*
- D. The existence of a dual or variable rate commission arrangement (i.e., one in which the seller agrees to pay a specified commission if the property is sold by the listing broker without assistance and a different commission if the sale results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale results through the efforts of a seller/landlord) shall be disclosed by the listing broker by the following keys:

"2" denotes that the seller/landlord agrees to pay a specified commission if the property is sold by the listing broker without assistance and a different commission if the sale results through the

efforts of a cooperating broker; and

"3" denotes that the seller/landlord agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale results through the efforts of a seller/landlord. 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 that results through the efforts of the seller/landlord.

"1" denotes that there is no dual or variable rate commission arrangement.

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.

- F. Participant as Principal: If a Participant or any licensee (or licensed or certified appraiser) affiliated with a participant has any interest in property, the listing of which is to be disseminated through the Multiple Information Service, that person shall disclose that interest when the listing is filed with the Multiple Information Service and such information shall be disseminated to all Multiple Information Service Participants.
- G. Participant as Purchaser: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a participant wishes to acquire an interest in property listed with another participant, such contemplated interest shall be disclosed in writing to the listing broker not later than the time an offer to purchase is submitted to the listing broker.

## **SECTION VII**

### **SERVICE CHARGES.**

- A. The Participation application fee shall be determined by the MIS Committee and approved by the Board of Directors. There is no refund or rebate of the participant application fee to a Participant should he/she retire, resign, or be expelled from MIS.
- B. Recurring MIS subscription fees, shall be based upon the total number of users/licensees affiliated with or employed by an MIS Participant for the operation of the computerized MIS system. The Board of Directors may adopt a policy establishing procedures providing for the direct billing of sales associates for MIS related fees and fines. Such procedures shall set forth the frequency of billing, method of payment, the amount owed and any associated late fees. Should the MIS be unsuccessful in collecting any fees or fines under this section the participant shall ultimately be responsible for payment.
- C. A Participant of the service shall be exempt from payment of MIS dues for any licensee employed or affiliated with the Participant who does not have access to and use of the service and who, through his Participant, has elected to join the Capital Area Association of REALTORS® internet based Commercial Real Estate Network (CREN). Such exemption shall be effective only upon submission of a properly completed "MIS Subscription Waiver Form" and until such time as the individual ceases to belong to the CREN. An individual who is exempt from MIS subscription fees shall not use the MIS in any way at any time. This exemption shall be automatically revoked upon the individual's utilization of the service. If such individual should utilize the MIS at any time, then that individual shall be obligated to pay the required subscription fee. Any MIS Participant who is waived out of the MIS under this section shall

have his or her MIS voting privileges suspended as long as said waiver is in effect.

- D. In the event the participant becomes delinquent in payment of user fees, said participant shall be denied all services of MIS until his account can be brought to a current status. For purposes of the above, a participant shall be considered delinquent if he fails to pay his charges for such user fees within thirty (30) days of the date of the billing for the same. A participant's account will be considered current if no amount is owing thereon. Any participant suspended twice in any 24-month period for a past due account shall not be allowed credit with MIS until determined otherwise by the MIS Committee. When credit is not allowed, a participant will be required to carry a credit balance in an amount to be determined by MIS; normally, such amount will be twice the average monthly bill, based on the last six months billing. After one hundred twenty (120) days of suspension of services to a participant, the MIS Committee shall rule on said participant's automatic expulsion period.
- E. Each Participant shall be entitled to lease from the Capital Area Association of REALTORS® a number of copies of each MIS Compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such Compilation. The Participant shall pay, for each such copy, the rental fee set by the Association. Participants shall acquire by such lease only the right to use the MIS Compilations in accordance with these Rules.

## **SECTION VIII**

### **COPYRIGHT AND USE OF MIS INFORMATION.**

- A. By the act of submission of any property listing content to the MIS, the Participant represents that he has been authorized to grant and also thereby does grant authority for the MIS to include the property listing content in its copyrighted MIS 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 listed property.
- B. The listing broker owns the listing agreement. Prior to submitting a listing to the MIS, the listing broker should own, or have the authority to cause all listing content (e.g., photographs, images, graphics, video recordings, virtual tours, floor plans, drawings, descriptions, narratives, pricing information, other details, etc.) to be published in the MIS compilation of listing information. It shall be a violation of these rules for a listing broker to use photographs, images, graphics, video recordings, virtual tours, drawings or floor plans taken from any listing in the MIS without the consent of the listing broker. The penalty for this violation shall be a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.  
*(Amended 04/10/2008)*
- C. Use of listings and listing information by the MIS for purposes other than the defined purposes of MIS requires Participant's consent. Such consent cannot be required as a condition of obtaining or maintaining MIS participatory rights. The MIS may presume such consent provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of the MIS, and given the opportunity to affirmatively withhold consent for that use.
- D. The MIS is not required to transmit Participant's listings to third-party aggregators or to operate a public website displaying listing information. However, if the MIS does transmit Participant's listings to third-party aggregators and/or operates a public website displaying listing information, all exclusive listings, regardless of type, will be included in the data feed (unless a Participant withholds consent for such transmission), except that the MIS shall exclude from such data feed any listing where both of the following conditions are present:



1. the listed property's street address or a graphic display of the property's specific location will be displayed to the public; and
2. the seller displays a "For Sale By Owner" or other sign or notice on the property indicating that the seller is soliciting direct contact from buyers.

When both conditions outlined in "1" and "2" above are present the Participant shall so indicate when entering the listing into the MIS database. Non-compliance with the reporting requirements of this section shall be grounds for a fine of up to \$500.00 per occurrence.

- E. Participants shall at all times maintain control over and responsibility for each copy of any MIS compilation received from the MIS and shall not distribute any such copies to persons other than subscribers who are affiliated with such participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and any other subscribers as authorized pursuant to the governing documents of the MIS. Use of information developed or published by the MIS is strictly limited to the activities authorized under a participant's licensure or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" for any right of access to information developed by or published by the MIS where access to such information is prohibited by law.
- F. Participants and those persons affiliated as licensees with such participants shall be permitted to display the MLS compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS compilation.
1. Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:
    - a. Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers a reasonable\* number of single copies of property listing data contained in the MLS compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the participant or their affiliated licensees, be interested.
    - b. 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.
    - c. 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.
    - d. 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.
    - e. None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that an association or

association-owned multiple listing service has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

- G. Nothing contained herein shall be construed to preclude any participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data, electronic or otherwise, pertaining exclusively to properties currently listed for sale with the participant. Electronic dissemination of such information shall comply with those requirements set forth in Section IX (Broker Reciprocity), and Section X (Virtual Office Websites) as well as any other requirements set forth in these rules.
- H. All right, title, and interest in each copy of every MIS image created and copyrighted by the MIS shall at all times remain vested in the MIS and the Capital Area Association of REALTORS®. Participant acknowledges that any copyright and ownership interest in property images taken by MIS photographers shall belong to the MIS. Copyright and ownership interests in images submitted by Participants, shall remain with the Participant, however, Participant licenses the MIS to reproduce, distribute and transform the image and place an MIS copyright legend on the image. Participant shall not alter or remove the MIS's copyright legend from any image except that Participant may remove said legend from Participant's own images for use in print media in which the Participant has control.
- I. Any MIS 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 with the exception of those instances outlined in Section IX (Broker Reciprocity) and Section X (Virtual Office Websites).
  - 1. A fine of up to \$1,000 shall be imposed on any MIS user or Participant who is found guilty of having provided his MIS computer passwords to another individual for the purpose of accessing the MIS system.
  - 2. Any Participant may apply for a computer password for an "assistant" (e.g., secretary, unlicensed personal assistant, office manager, etc.) to access the computerized MIS. Such assistant shall be granted a password upon application to the Association and completion of the appropriate user agreement. Upon the assistant's termination of employment the Participant shall, within three (3) calendar days, provide written notice to the Association of such termination. Upon approval by the Board of Directors the MIS may charge for this service.
- J. Use of 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 or MIS 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. *(Effective May 1, 2008)*
- K. Use of information from MIS compilation of current listing information, from the Association's "Statistical Report," or from any "sold" or "comparable" report of the Association or MIS for public mass-media advertising by an MIS Participant or in other public representations may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in

whole or in part on information supplied by the Association or its MIS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

"Based on information from the Multiple Information Service of the Capital Area Association of REALTORS® for the period (date) through (date)."

- L. Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants.
- M. Unless otherwise stated, a violation of this section is punishable by a fine of up to \$5,000, suspension of MIS privileges and/or termination of MIS privileges.

## **SECTION IX**

### **BROKER RECIPROCITY™ (also known as INTERNET DATA EXCHANGE)**

- A. The term "Broker Reciprocity™ Subscriber" (BRS) shall mean an individual Participant in the MIS who has given their consent to permit the display of all of their listings on a blanket basis on other Participant's public websites. Consent for such display shall be presumed unless a listing broker affirmatively notifies the MIS that the listing broker refuses to permit display on (either a blanket or a listing by listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MIS data of other Participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. Access to the MIS databases, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MIS rules.
- B. 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. A Broker Reciprocity™ Subscriber may republish all or a portion of the Broker Reciprocity™ Database on the Internet in accordance with the following provisions and in keeping with all policies that the MIS may adopt from time to time. Unless expressly contravened by the provisions of this section, all other rules and regulations remain in full force and effect.
  - 1. Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.
  - 2. MIS Participants may not use IDX-provided listings for any purpose other than display on their websites. This does not require Participants to prevent indexing of IDX listings by recognized search engines.
  - 3. Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites.
  - 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.

5. Participants must refresh all MLS downloads and refresh all MLS data not less frequently than every three (3) days.

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

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

8. With respect to any IDX site 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.

the IDX site shall disable or discontinue either or both of those features as to the seller's listing at the request of the seller. The listing broker or agent shall communicate to the MIS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Except for the foregoing and subject to paragraph 9, a Participant's IDX site may communicate the Participant's professional judgment concerning any listing. Nothing shall prevent an IDX site from notifying its customers that a particular feature has been disabled at the request of the seller.

9. An IDX operator 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 IDX operator beyond that supplied by the MLS and that relates to a specific property displayed on the IDX site. The IDX operator 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 that property explaining why the data or information is false. However, the IDX operator shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice or professional judgment.

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

1. An Internet republication of another BRS's listing shall contain only those fields of data designated by the MIS for this purpose. Confidential fields intended only for other MIS Participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.

2. A BRS may not modify or manipulate the data relating to another BRS's listing. (This is not a limitation on the design of the site but refers to the actual data.) MIS 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.

3. All listings displayed pursuant to IDX shall identify the listing firm 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.
4. Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own Web sites subject to their Participant's consent and control and the requirements of state law and/or regulation.
5. All listings displayed pursuant to IDX shall show the MIS as the source of the information.
6. Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that data is deemed reliable but is not guaranteed accurate by the MIS. The MIS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MIS from liability.
7. The right to display other Participant's listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MIS.
8. Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.
9. Display of expired, withdrawn, pending (no showings) or sold listings is prohibited. Pending (continue to show) listings are permitted as is information relative to price changes.
11. Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.
10. The MIS-approved icon and an explanation that those properties marked with the icon are provided courtesy of the Capital Area Multiple Information Service, Broker Reciprocity™ Database must appear on the first page where any listing data is displayed.
11. Advertising (including co-branding) shall be permitted on pages displaying IDX-provided listings as long as it is not deceptive or misleading. For the purposes of this provision, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information is larger than that of any third party.
12. The Board of Directors may, from time to time, establish policies and procedures to carry out this Section.

## **SECTION X**

### **VIRTUAL OFFICE WEBSITES (VOWs)**

#### **Section 19.1**

(a) A Virtual Office Website ("VOW") is a Participant's Internet website, or a feature of a Participant's website, through which the Participant is capable of providing real estate brokerage services to consumers with whom

the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant's oversight, supervision, and accountability.

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

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

(d) As used in this Section, the term "MLS Listing Information" refers to active listing information and sold data provided by 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 MLS's may operate a master website with links to the VOWs of the other offices.

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

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

#### Section 19.3

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

- i. The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- ii. The Participant must obtain the name of, and a valid email address for, each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.
- iii. The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and

password. The Participant must also assure that any email address is associated with only one user name and password.

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

(c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

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

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

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

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

#### Section 19.4

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

#### Section 19.5

A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security

protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

#### Section 19.6

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

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

#### **Seller Opt-Out Form**

1. Please check either Option a or Option b

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

OR

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

2. I understand and acknowledge that, if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.

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

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

#### Section 19.7

(a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing

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

#### Section 19.8

A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. Participant shall



correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

#### Section 19.9

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

#### Section 19.10

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

#### Section 19.11

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

#### Section 19.12

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

#### Section 19.13

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

#### Section 19.14

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

#### Section 19.15:

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

- a. *(Omitted)*
- b. compensation offered to other MLS Participants.
- c. *(Omitted)*
- d. 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. *(Omitted)*

#### 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:

*(Omitted)*

Section 19.19

A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 current listings and not more than 100 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 that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

Section 19.23

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

Section 19.24

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

Section 19.25:

*(Omitted)*

*(Added 01/13/2009)*

## **SECTION XI**

### **ELECTRONIC ENTRY CARD AND KEYBOX SYSTEM**

The rules and regulations for the operation of the electronic entry card and keybox system as recommended by the MIS Committee and approved by the Board of Directors on May 14, 1996, and as amended from time to

time, are incorporated by reference. All MIS Participants, MIS users, and affiliate members shall adhere to these rules or risk losing their privileges under the system.

## **SECTION XII**

### **ENFORCEMENT OF RULES OR DISPUTES**

- A. By becoming and remaining a participant or subscriber in this MIS, each participant and subscriber agrees to be subject to the rules and regulations of and any other MIS governance provision. The MIS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MIS 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 MIS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
  - D. appropriate, reasonable fine not to exceed \$15,000
  - E. probation for a stated period of time not less than thirty (30) days nor more than one (1) year.
  - F. suspension of MIS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
  - G. termination of MIS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years

*(Added 09/09/08)*

- B. Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MIS 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 MIS 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.  
*(Added 09/25/08)*
- C. The Committee shall give consideration to all written complaints from Participants having to do with violations of the Rules and Regulations. All other complaints of unethical conduct shall be referred by the board of directors of the service to the association of REALTORS for appropriate action in accordance with the professional standards procedures established in the association's bylaws.
- D. If the alleged offense is a violation of the Rules and Regulations of the MIS and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the MIS Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and Rules and Regulations of the Capital Area Association of REALTORS® within twenty (20) days following receipt of the Committee's decision. If the MIS Committee has a procedure established to conduct hearings, the

decision of the MIS tribunal may be appealed to the Board of Directors within twenty (20) days of the tribunal's decision being rendered.

### **SECTION XIII**

#### **AMENDMENTS**

Any and all of these Rules and Regulations, or any section hereof, are subject to change upon a vote of two-thirds of the participants present at a meeting called by giving at least ten (10) days written notice of such meeting and setting forth the proposed amendment or by presenting in writing such amendment at some previous regular meeting; and the MIS Committee has, by a majority, recommended to make such amendment, subject to review and final approval by the Board of Directors of the Capital Area Association of REALTORS®, and providing further that at least one full week's notice shall be given each participant. However, the Board of Directors may at any regular or special meeting, at which a quorum is present, approve amendments to the MIS rules which are "mandated" by NAR policy.

### **APPENDIX A**

#### **MLS Antitrust Compliance Policy**

The purpose of multiple listing is the orderly correlation and dissemination of listing information to participants so they may better serve the buying and selling public. Boards and associations of Realtors and their multiple listing services shall not enact or enforce any rule which restricts, limits, or interferes with participants in their relations with each other, in their broker/client relationships, or in the conduct of their business in the following areas.

Boards and associations of Realtors and their MLSs shall not:

1. Fix, control, recommend, or suggest the commissions or fees charged for real estate brokerage services (Interpretation 14).
2. Fix, control, recommend, or suggest the cooperative compensation offered by listing brokers to potential cooperating brokers.
3. Base dues, fees, or charges on commissions, listed prices, or sales prices. Initial participation fees and charges should directly relate to the costs incurred in bringing services to new participants.
4. Modify or attempt to modify, the terms of any listing agreement; this does not prohibit administrative corrections of property information necessary to ensure accuracy or consistency in MLS compilations.
5. Refuse to include any listing in an MLS compilation solely on the basis of the listed price.
6. Prohibit or discourage participants from taking exclusive agency listings or refusing to include any listing in an MLS compilation solely on the basis that the property is listed on an exclusive agency basis.
7. Prohibit or discourage participants from taking "office exclusive" listings; certification may be required from the seller or listing broker that the listing is being withheld from the MLS at the direction of the seller.
8. Give participants or subscribers blanket authority to deal with or negotiate with buyers or sellers exclusively represented by other participants (Interpretation 10).
9. Establish or permit establishment of, any representational or contractual relationship between an MLS and sellers, buyers, landlords, or tenants.

10. Prohibit or discourage cooperation between participants and brokers that do not participate in the MLS.
11. Prohibit or discourage participants or subscribers from participating in political activities (Interpretation 15).
12. Interfere in or restrict participants in their relationships with their affiliated licensees (Interpretations 16 and 17).

As used in this policy, "rule" includes all rules, regulations, bylaws, policies, procedures, practices, guidelines, or other governance provisions, whether mandatory or not. "Multiple listing service" and "MLS" means multiple listing service committees of boards and associations of Realtors and separately-incorporated multiple listing services owned by one or more boards or associations of REALTORS .

These policy prohibitions are subject to and limited by applicable statutes, ordinances, and governmental regulations, to agreements entered into by an MLS or board or association of Realtors and an agency of government, and to final decrees of courts or administrative agencies.

This policy does not prohibit boards or associations of Realtors or their MLSs from adopting rules or policies establishing the legitimate uses of MLS information, from prohibiting unauthorized uses of MLS information, or from establishing rules or policies necessary to prevent illegal collective action, including price-fixing and boycotts.

It is the duty and responsibility of all boards and associations of REALTORS and MLSs owned by or controlled by boards or associations of Realtors to ensure that all bylaws, rules, regulations, and other governance provisions comply with all mandatory multiple listing policies of the National Association of REALTORS . Boards and associations of REALTORS failing to conform with these policies will be required to show cause why their charters should not be revoked.

The numbered references refer to the official interpretations of Article I, Section 2 of the bylaws of the National Association of REALTORS.

Revised and effective June 12, 2012