



## ***RULES AND REGULATIONS***

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# Bright MLS Rules and Regulations

## **PURPOSE**

The purpose of Bright MLS is to provide a Multiple Listing Service (MLS) to *Subscribers*. An MLS is a means by which:

- (a) authorized *Participants* make blanket unilateral offers of compensation to other *Participants* (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law);
- (b) cooperation among *Participants* is enhanced;
- (c) information is accumulated and disseminated to enable authorized *Participants* to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers;
- (d) *Participants* engaging in real estate appraisal contribute to common databases; and
- (e) listing information may be correlated and disseminated in an orderly manner so *Subscribers* may better serve their clients and customers.

Entitlement to compensation is determined by the cooperating *Participant's* performance as a procuring cause of the sale (or lease).

## **DEFINITIONS**

### **Agreement of Sale**

When used in these Rules and Regulations the term *agreement of sale* includes agreement to lease (or rent) except when not italicized.

### **Bright MLS Content**

*Bright MLS Content* means individual units of, or collectively, any form of informational content contained in a real estate property listing (whether on or off market, active or sold), whether supplied by Bright, a *Subscriber*, or a third party that is stored in or made available through the *Bright MLS Service*.

### **Bright MLS Database**

*Bright MLS Database* means any database maintained for the *Bright MLS Service* consisting of *Listing Content*, *Bright MLS Content*, and related informational content (which includes, by way of example and not limitation, text, data, *Images and Documents*, computer code (including HTML code), programs, software, products, information, and documentation as well as the design, structure, selection, coordination, expression, "look and feel," and arrangement of any *Bright MLS Content* contained on or available through the *Bright MLS Service*, and any other informational content stored by Bright MLS). Bright MLS owns the *Bright MLS Database*.

### **Bright MLS Primary Service Area**

The Bright MLS Primary Service Area includes all counties in Delaware, Maryland, and the District of Columbia as well as the following counties in:

#### New Jersey

Burlington  
Camden  
Cumberland

Gloucester

#### Pennsylvania (cont.)

Montgomery  
Perry  
Philadelphia

Schuylkill

#### Virginia (cont.)

Manassas City  
Manassas Park City

Nelson  
Orange  
Page

Mercer	York	Prince William
Salem		Rappahannock
	<u>Virginia</u>	Spotsylvania
<u>Pennsylvania</u>	Albemarle	Shenandoah
Adams	Alexandria City	
Berks	Arlington	Stafford
Bucks	Caroline	Warren
	City of Charlottesville	
	City of Winchester	
Chester	Clarke	<u>West Virginia</u>
Cumberland	Culpeper	Berkeley
Dauphin	Fauquier	Grant
Delaware	Falls Church City	Hardy
Franklin	Fairfax City	Hampshire
Fulton	Fluvanna	Jefferson
	Fredericksburg City	
Juniata	Greene	Mineral
	King George	
Lancaster	Loudoun	Morgan
Lebanon	Louisa	Pendleton
	Madison	

This represents the jurisdictions of all participating stakeholders of Bright MLS.

### **Bright MLS Service**

*Bright MLS Service* means Bright MLS's proprietary online and mobile real estate information service.

### **Business Day**

*Business days* are weekdays (Mondays through Fridays) except if a weekday falls on a federal holiday.

### **Closed (Sold)**

When used in these Rules and Regulations the terms *closed* and *sold* include "leased" (or "rented") except when not italicized.

### **Exclusive Agency Listing Agreement**

A contractual agreement under which:

- a single listing broker is granted authority to act as the agent or as the legally recognized non-agency representative of the Seller, to the exclusion of all others during the term of the contract, AND
- the Seller agrees to pay a fee or commission to the listing broker if the property is *sold* through the efforts of any real estate broker, BUT
- if the property is *sold* solely through the efforts of the Seller, the Seller is not obligated to pay a commission to the listing broker.

### **Exclusive Right to Sell Listing Agreement**

A contractual agreement under which:

- a single listing broker is granted authority to act as the agent or as the legally recognized non-agency representative of the Seller, to the exclusion of all others during the term of the contract, AND

- the Seller agrees to pay a fee or a commission to the listing broker, regardless of whether the property is *sold* through the efforts of the listing broker, the Seller or anyone else.

An *exclusive right to sell listing agreement* may include a provision allowing the Seller to name one or more individuals or entities as exemptions or exclusions to the listing agreement and if the property is *sold* to any so exempted or excluded Buyer, the Seller is not obligated to pay a fee or commission to the listing broker.

### **Exempted Listings**

*Exempted listings* are *listings* of property in which the *Participant* has been directed by the Seller:

- not to cooperate with any other *Participant*, OR
- not to offer compensation to any other *Participant* (whether or not cooperation with other *Participants* has been authorized by the Seller), OR
- not to disseminate information about the property to other *Subscribers* of Bright MLS by means of the *Bright MLS Database* even though cooperation with and/or compensation to other *Participants* has been authorized by the Seller.

Certification from the owner to not cooperate, offer cooperative compensation, or to enter the listing into the database shall be submitted to Bright MLS and kept on file by the *Participant*.

### **Images and Documents**

*Images and Documents* includes images, photographs, audio, sounds, video graphics, user interfaces, visual interfaces, artwork, documents, drawings, renderings, blueprints, and any other files submitted by a *Subscriber* to the *Bright MLS Service* as part of *Listing Content*.

### **Internet Data Exchange (IDX)**

*IDX* affords *MLS Participants* the ability to authorize limited electronic display of their *listings* by other *Subscribers*.

### **Internet Data Exchange Participant (IDX Participant)**

An *MLS Participant* who authorizes limited electronic display of their *listings* by other *Participants* in return for permission to display their *listings*. An *IDX Participant* may display *listings* of property in the *Internet Data Exchange Database* upon the acceptance by Bright MLS of a fully executed licensing agreement (available from Bright MLS).

### **Internet Data Exchange Subscriber (IDX Subscriber)**

A *Subscriber* affiliated with an *IDX Participant* who:

- with the written permission and authority of such *Participant*, displays *listings* of property in the *Internet Data Exchange Database* upon the acceptance by Bright MLS of a fully executed licensing agreement (available from Bright MLS):
  - subject to the *Participant's* consent and control, and
  - in accordance with all applicable laws and regulations, and
  - in accordance with Bright MLS rules.

### **Internet Data Exchange Database (IDX Database)**

The current aggregate compilation of all *listings* of all *IDX Participants* except those *listings* where the property Seller and/or *IDX Participant* has opted out of all Internet display by so indicating on the listing contract and entry into the *Bright MLS Database*. Bright MLS owns the *IDX Database*.

## **Listing Content**

References to *listings* or *Listing Content*, as used herein, means *Images and Documents*, and any other content referred to in the *Bright MLS Content*, that is submitted by a *Subscriber* in relation to listed properties or otherwise used by or relied upon by *Subscribers*.

## **Net Listing Contract**

A listing which entitles the real estate broker to receive as compensation any amount over a given net amount to the Seller. *Net Listing contracts* may not be submitted to Bright MLS.

## **Open Listing Contract**

A contractual agreement under which the listing *Participant* acts as the agent or as the legally recognized non-agency representative of the Seller, and the Seller agrees to pay a commission to the listing *Participant* only if the property is sold through the efforts of the listing *Participant*. Bright MLS does not accept properties listed subject to *open listing contracts* (except where acceptance is required by law and/or a *closed* property qualifies for inclusion in the *Bright MLS Database* under the provisions of acceptable listing agreements.)

## **Participant**

Any principal, partner, corporate officer or branch office manager who holds a current, valid real estate broker's license and offers or accepts offers of compensation to and from other *Participants* through Bright MLS or is licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

## **Participation Defined**

Any REALTOR® or non-REALTOR® who is a principal, partner, corporate officer or branch office manager acting on behalf of a principal, shall be eligible to participate in the services provided by the Bright MLS upon agreeing in writing to conform to the Bylaws and Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm entitled to MLS participation or membership 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.

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

The key is that the *Participant* or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit Bright MLS to deny participation to a *Participant* or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. Bright



MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if Bright MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants.

**Purchase/Lease**

When used in these Rules and Regulations the term *purchase* includes lease (or rent).

**Short Sale**

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.

**Subscriber**

Subscriber means, individually or collectively as the context requires, Brokers of Record, Licensees, Associate Brokers, Non-licensed Personnel, and/or Appraisers.

**Subscriber Types and Definitions**

<b>Broker of Record</b>	Licensed by the state real estate licensing authority and is recognized as the principal broker for the firm and has management oversight.
<b>Licensees</b>	Licensed real estate salespersons who are affiliated with a participating Broker of Record.
<b>Associate Brokers</b>	Real Estate Brokers who operate as managers or salespersons who are subject to the oversight of the Broker of Record.
<b>Non-licensed Personnel</b>	Administrative and clerical staff, personal assistants, and individuals providing administrative support to the Subscribers.
<b>Appraiser</b>	Licensed or certified by the state licensing authority to provide valuations of real property.

## **STATUS DEFINITIONS**

### **Active**

Properties currently subject to a listing contract and *reported* to Bright MLS in which the *Participant* has been directed by the Seller to:

- set appointments for showings (new construction may not qualify), AND
- seek *agreements of sale* to present to the Seller; AND
- the listing is on the market and a written offer has not been accepted.

### **Active Under Contract**

Properties in which

- a written offer has been accepted but the Seller agrees to:
  - continue to show the property AND
  - accept backup offers.
- Sub-categories for *Active Under Contract* include, but are not limited to, Kick Out, Third Party Approval, Attorney Review Period, and First Right of Refusal.

### **Cancelled**

Properties in which the listing contract has been terminated prior to the expiration date.

### **Closed**

Properties in which

- A successful closing has taken place and title has been transferred from Seller to Buyer or in which possession of a property has been transferred from a lessor to a lessee.
- the agreement of sale has been fulfilled or the lease agreement has been executed.

### **Coming Soon**

Properties currently subject to a listing contract and *reported* to Bright MLS in which the *Participant* has been directed by the Seller:

- to market (or pre-market) the property
- but not to set appointments for showings during a current, specified time-period.
- No *agreement of sale* is currently in effect.
- This listing has not yet been on the market but will be on the market soon. A listing contract has been executed but the property cannot be shown. *Listings* are limited to 21 days for the *coming soon* status.

When a listing's status is reported as ***Coming Soon***, the showing appointment prohibition is deemed to apply to all *Subscribers*, including those affiliated with the listing broker. If a listing with a showing prohibition may be shown by at least one licensee affiliated with the listing office or listing company, the ***Coming Soon*** status may not be applied to the listing. Such a property must be *submitted to* Bright MLS as an Exempted Listing.

During the specified period the status of a property is ***Coming Soon***, if the *Participant* receives an *agreement of sale* (whether solicited or not), it must be presented to the Seller in accordance with all applicable laws and regulations.

### **Expired**

*Listings* of property in which:

- the listing contract has passed its contractually agreed upon expiration date, AND
- the *Participant* has not secured permission from the Seller on or before that expiration date to extend the term of the listing for an additional period of time.

- the listing contract has *expired*.

### **Temporarily Off Market**

*Listings* of property in which the Seller has requested the *Participant* to:

- temporarily suspend the marketing of the property, AND
- not set appointments for showings, while the listing contract between the *Participant* and the Seller remains in effect.
- the listing is off market, but a contract still exists between the seller and the *Participant* and the listing is expected to come back on market.

### **Pending**

*Listings* of property in which:

- an *agreement of sale* is in effect,
- the settlement has not yet taken place, and
- the *Participant* has been instructed by the Seller to no longer set appointments for showings,
- a written offer has been accepted and the listing is no longer on the market.

### **Withdrawn**

The *listing* has been *withdrawn* from the market, but a contract still exists between the Seller and the *Participant* and there is no intention to bring the listing back on the market.

All status changes must be reported to the service within three (3) *business days*.

## **PROPERTY TYPES**

### **Residential**

A single-family residence that is for sale. Residential property type will include residential dwellings of one unit.

### **Multifamily**

Multifamily property type will include 2-4 unit residential properties that are for sale where all units are part of the transactions.

### **Land**

Vacant Land with no inhabitable improvement that is for sale. Land property type includes lots for sale.

### **Farm**

A property where agricultural and similar activities take place that is for sale.

### **Residential Lease**

A single-family residence that is for lease. Residential Lease property type will include residential dwellings of one unit that are for lease.

### **Commercial Sale**

Commercial Sale property type includes buildings that are zoned for commercial use that are for sale and/or residential dwellings of 5+ units.

### **Commercial Lease**

Commercial Lease property type includes buildings that are zoned for commercial use and are for lease and/or residential dwellings of 5+ units.

## **Business Opportunity**

Any business for sale that does NOT include the real property, but does include a leasehold interest in real property, which is transferred in conjunction with the business.

## **LISTING PROCEDURES**

### **Section 1. Listing Procedures**

*Listings* of real or personal property, which are listed subject to a real estate broker's license, and which are located within the *Bright MLS Primary Service Area* and taken by *Participants* on listing contracts acceptable to Bright MLS shall be electronically input or delivered to Bright MLS within three (3) *business days*, **unless precluded by law**, after all necessary signatures of Seller(s) have been obtained and the listing term has begun.

- (a) Bright MLS shall not require a *Participant* to execute *listings* of property on a contract other than the contract the *Participant* individually chooses to utilize provided it is of a type accepted by Bright MLS. However, Bright MLS, through its legal counsel may:
  - (1) reserve the right to refuse to accept a listing of property on a contract which fails to adequately protect the interests of the public and the *Participants*.
  - (2) assure that no contract for a listing of property submitted to Bright MLS establishes, directly or indirectly, any contractual relationship between Bright MLS and the client (Buyer or Seller).
- (b) Bright MLS shall accept *Exclusive Right to Sell Listing Agreements* and *Exclusive Agency Listing Agreements*, and may accept other forms of listing contracts which make it possible for the listing *Participant* to offer compensation to the other *Participants* of Bright MLS acting as subagents, and/or buyer agents, and/or transaction licensees.
- (c) Bright MLS shall accept *listings* subject to auction terms provided they are conducted in accordance with all applicable laws and the following conditions are met:
  - (1) a valid listing contract between the *Participant* and the Seller exists, subject to the requirements outlined in Section 1(b)
  - (2) a listing price is specified as outlined in Section 1.7
  - (3) compensation is offered to cooperating *Participants* as outlined in Section 4
  - (4) an agency relationship between the Seller and the *Participant* exists for the duration of the auction process
  - (5) the *Participant* clearly discloses in the MLS that the listing is subject to auction terms.
- (d) *Participants* must disclose potential *short sales* when reasonably known to the listing *Participants*, unless precluded by law.
- (e) *Exclusive agency listings* and *exclusive right to sell listings* with named prospects exempted shall be clearly distinguished from *exclusive right to sell listings* with no named prospects exempted when *reported* to Bright MLS, since they can present special risks of procuring cause controversies and administrative problems not posed by *exclusive right to sell listings* with no named prospects exempted. Care should be exercised to ensure that the correct designations

are made in the Listing Type and Prospects Excluded fields to clearly identify *exclusive agency* and *exclusive right to sell listings* with prospect reservations. *Subscribers* should contact the listing *Participant* or *Subscriber* to verify the identity of exempted prospects.

- (f) The listing contract must include the Seller's authorization to submit the agreement to Bright MLS.
- (g) Bright MLS shall not regulate the type of listings its *Participants* may take. This does not mean that Bright MLS must accept every type of listing. Bright MLS shall decline to accept *open listings*<sup>1</sup> and *net listings* and it may limit its service to listings of certain kinds of property. But if it chooses to limit the kind of listings it will accept, it shall leave its *Participants* free to accept such listings to be handled outside Bright MLS.

### **Section 1.1 Listings Subject to Rules and Regulations of Bright MLS**

All *listings* of property taken by *Participants* on contracts acceptable to Bright MLS are subject to the Rules and Regulations and all other applicable published policies of Bright MLS upon the signature of the Seller.

- (a) A *Subscriber* shall not enter a listing for a property in the *Bright MLS Database* at any time when the same property is currently listed by any other *Participant*. Prior to adding a listing to the *Bright MLS Database*, the *Subscriber* shall check to verify that the property is not already entered in the *Bright MLS Database*.
- (b) If a property is co-listed with two or more *Participants*, only one *Participant* shall be allowed to enter the listing into the *Bright MLS Database*. Identification of the other *Participant* must be entered in the Agent Remarks. This shall not prevent one *Participant* from entering an exclusive sale listing and another *Participant* from entering an exclusive rental agreement.

### **Section 1.2 Detail on Listings Submitted to Bright MLS**

Property information, when submitted to Bright MLS by the listing *Participant*, shall be complete in every detail which is ascertainable as specified on the applicable Bright MLS add/edit input screen.

#### **Section 1.2.1 Limited Service Listings**

*Listings* of property submitted to Bright MLS under which the listing *Participant* will not provide one or more of the following services:

- arrange appointments for cooperating *Participants* to show the listed property to potential buyers (but instead gives cooperating *Participants* authority to make such appointments directly with the Seller),
- accept and present to the Seller *agreements of sale* for the property procured by cooperating *Participants* (but instead gives cooperating *Participants* authority to present *agreements of sale* directly to the Seller),
- advise the Seller as to the merits of *agreements of sale*,
- assist the Seller in developing, communicating or presenting *counter-offers*,
- participate on the Seller's behalf in negotiations leading to the sale of the listed property,

must disclose that the listing *Participant's* services to the Seller are "limited" in the designated MLS field and such information shall be disseminated to all Bright MLS *Subscribers* so potential cooperating *Participants* will be aware of the extent of the services the listing *Participant* will provide to the seller(s),

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<sup>1</sup> Exception: Bright MLS will accept *open listing contracts* where acceptance is required by law and/or when *closed* property qualifies for inclusion in the *MLS Database* under the provisions of Section 2.9.

and any potential for cooperating *Participants* being asked to provide some or all of these services to listing *Participants'* clients, prior to initiating effort to show or sell the property.

### **Section 1.2.2 MLS Entry Only Listings**

*Listings* of property *filed* with Bright MLS under which the listing *Participant* will not provide any of the following services:

- arrange appointments for cooperating *Participants* to show the listed property to potential buyers (but instead gives cooperating *Participants* authority to make such appointments directly with the Seller),
- accept and present to the Seller *agreements of sale* for the property procured by cooperating *Participants* (but instead gives cooperating *Participants* authority to present *agreements of sale* directly to the Seller),
- advise the Seller as to the merits of *agreements of sale*,
- assist the Seller in developing, communicating or presenting *counter-offers*,
- participate on the Seller's behalf in negotiations leading to the sale of the listed property,

must disclose that the listing *Participant's* services to the Seller are "MLS Entry Only" in the designated MLS field and such information shall be disseminated to all Bright MLS *Subscribers* so potential cooperating *Participants* will be aware of the extent of the services the listing *Participant* will provide to the seller(s), and any potential for cooperating *Participants* being asked to provide some or all of these services to listing *Participants'* clients, prior to initiating effort to show or sell the property.

### **Section 1.3 Exempted Listings**

*Exempted Listings* are *listings* of property, taken on listing contracts acceptable to Bright MLS, in which the *Participant* has been directed by the Seller either:

- not to cooperate with any other *Participant* , OR
- not to offer compensation to any other *Participant* (whether or not cooperation with other *Participants* has been authorized by the Seller), OR
- not to disseminate information about the property to other *Subscribers* of Bright MLS by means of the *Bright MLS Database* even though cooperation with and/or compensation to other *Participants* has been authorized by the seller.

For *exempted listings*, the *Subscriber* must obtain and submit to Bright MLS within three (3) *business days*:

- a "WAIVER OF BROKER SUBMISSION TO BRIGHT MLS MULTIPLE LISTING SERVICE" form (provided by Bright MLS) signed by the Seller, OR
- other certification acceptable to Bright MLS, signed by the Seller, that he does not desire the listing to be disseminated by Bright MLS.

In response to an address specific inquiry from a Bright MLS *Subscriber*, Bright MLS will disclose whether or not a listing for a property with that address has been *filed* as an *Exempted Listing* with Bright MLS, but will not disclose any information about the listed property or the listing *Participant*.

### **Section 1.4 Change of Status of Listing**

Any change in listed price or other change in the original listing contract shall be made only when authorized in writing by the Seller and shall be submitted to Bright MLS within three (3) *business days* (excluding weekends, holidays and federal holidays) after the authorized change is received by the listing *Participant*.

### **Section 1.5 Cancellation of Listing Prior to Expiration**

*Listings* of property may be *cancelled* from Bright MLS by the listing *Participant* before the expiration date of the listing contract provided notice is filed with Bright MLS.

Sellers do not have the unilateral right to require Bright MLS to cancel a listing without the listing *Participant's* concurrence. However, when a Seller(s) can document that the exclusive relationship with the listing *Participant* has been terminated, Bright MLS may cancel the listing at the request of the Seller.

### **Section 1.6 Contingencies Applicable to Listings**

Any contingency or conditions of any term in a listing shall be specified and noticed to the *Subscribers*.

### **Section 1.7 Listing Price Specified**

The full gross listing price, stated in the listing contract, will be included in the information published in the MLS compilation of current *listings*.

### **Section 1.8 Photo Requirement**

At least one photo must be submitted to Bright MLS at time of entry, regardless of property type and/or status except where the seller expressly directs that the images of the property are not to be submitted to Bright MLS. One photo must be a "curbside" view of the property that shows the property upon arrival. *Subscribers* may select one photo that will be displayed as the primary photo. For new construction, an architectural rendering of the exterior elevation or the floor plan is acceptable. For unimproved non-residential properties, a plat or survey of the property is acceptable.

### **Section 1.9 Listing Multiple Unit Properties**

All properties which are to be *sold* or which may be *sold* separately must be indicated individually in the listing and on the Property Profile sheet. When part of a listed property has been *sold*, proper notification should be given to Bright MLS.

### **Section 1.10 No Control of Commission Rates or Fees Charged by Participants**

Bright MLS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by *Participants*. Further, Bright MLS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating *Participants* or between *Participants* and non-*Participants*.

### **Section 1.11 Expiration, Extension, and Renewal of Listings**

Any listing submitted to Bright MLS automatically expires on the date specified in the listing contract unless renewed by the listing *Participant* and notice of renewal or extension is submitted to Bright MLS prior to expiration. If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be submitted to Bright MLS. It will then be published as a new listing. Any extension or renewal of a listing must be signed by the Seller(s) and be submitted to Bright MLS.

### **Section 1.12 Expiration Date on Listings**

*Listings* submitted to Bright MLS shall bear a definite and final expiration date as negotiated between the listing *Participant* and the Seller.

### **Section 1.13 Retention of Listing Agreements**

*Participants* shall retain, in the *Participant's* office, copies of listing contracts, extensions of listing contracts, price changes, and other material changes of listing contracts authorized by seller and, upon request, will furnish said copies to Bright MLS within three (3) *business days*.

### **Section 1.14 Submission of Listings within Primary Service Area**

*Listings* of all properties located within the *Bright MLS Primary Service Area* are required to be submitted to Bright MLS. *Listings* of property located outside *Bright MLS's Primary Service Area* will be accepted if submitted voluntarily by a *Participant*, but are not required by Bright MLS.

### **Section 1.15 Listings of Suspended Participants**

When a *Participant* of Bright MLS is suspended for failing to abide by a membership duty (i.e., violation of MLS Bylaws, MLS Rules and Regulations, the Code of Ethics when applicable, Association Bylaws when applicable, or other membership obligation except failure to pay appropriate dues, fees, or charges), all *listings* currently submitted to Bright MLS by the suspended *Participant* shall, at the *Participant's* option, be retained in the *Bright MLS Database* until **Closed, Withdrawn, or Expired**, and shall not be renewed or extended by Bright MLS beyond the termination date of the listing contract in effect when the suspension became effective.

When a *Participant* of Bright MLS is suspended for failure to pay appropriate dues, fees, or charges, Bright MLS is not obligated to provide MLS services, including continued inclusion of the suspended *Participant's listings* in the *Bright MLS Database*. Prior to any removal of a suspended *Participant's listings* from the MLS, the suspended *Participant* will be advised in writing of the intended removal so that the suspended *Participant* may advise his clients.

### **Section 1.16 Listings of Expelled Participants**

When a *Participant* of Bright MLS is expelled for failing to abide by a membership duty (i.e. violation of MLS Bylaws, MLS Rules and Regulations, the Code of Ethics when applicable, Association Bylaws when applicable, or other membership obligations except failure to pay appropriate dues, fees, or charges), all *listings* currently submitted to Bright MLS shall, at the expelled *Participant's* option, be retained in the *Bright MLS Database* until **Closed, Withdrawn, or Expired**, and shall not be renewed or extended by Bright MLS beyond the termination date of the listing contract in effect when the expulsion became effective.

When a *Participant* of Bright MLS is expelled for failure to pay appropriate dues, fees, or charges, Bright MLS is not obligated to provide MLS services, including continued inclusion of the expelled *Participant's listings* in the *Bright MLS Database*. Prior to any removal of an expelled *Participant's listings* from the *Bright MLS Database*, the expelled *Participant* will be advised in writing of the intended removal so that the expelled *Participant* may advise his clients.

### **Section 1.17 Listings of Resigned Participants**

When a *Participant* resigns from Bright MLS, Bright MLS is not obligated to provide services, including continued inclusion of the resigned *Participant's listings* in the *Bright MLS Database*. Prior to any removal of a resigned *Participant's listings* from the *Bright MLS Database*, the resigned *Participant* will be advised in writing of the intended removal so that the resigned *Participant* may advise his clients.

### **Section 1.18 Participation Not Transferable**

Participation in Bright MLS is on an individual basis and may not be transferred or sold to any corporation, firm or other individual. Any reimbursement due to a prepaid participation fee is a matter of negotiations between those transferring the business or determined by internal contract arrangement within the firm. However, providing the first *Participant* consents, Bright MLS shall allow a firm to designate a different person as a *Participant* within the firm without additional initial participation fees. Bright MLS may charge an administrative fee for this service of reassigning *Participants* within a firm.

### **Section 1.19 Assignment of Listings**

In the event *listings* are to be assigned from one *Participant* to another *Participant*, Bright MLS will require written notification, signed by both *Participants*, stating that written permission to effectuate the assignment has been secured from all Seller(s).

### **Section 1.20 Editing Listing Content**

Bright MLS reserves the right to edit listing content.



## **SELLING PROCEDURES**

### **Section 2. Showings and Negotiations**

Appointments for showings and negotiations with the Seller for the *purchase* of listed property submitted to Bright MLS shall be conducted through the listing *Participant* except under the following circumstances:

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

### **Section 2.1 Presentation of Offers**

The listing *Participant* must arrange to present the *offer* as soon as possible, or give the cooperating *Participant* a satisfactory reason for not doing so.

### **Section 2.2 Submission of Written Offers**

The listing *Participant* shall submit to the Seller all written *offers* until closing, **unless precluded by law, government rule, regulation**, or agreed otherwise in writing between the Seller and the listing *Participant*. Unless the subsequent *offer* is contingent upon the termination of an existing contract, the listing *Participant* shall recommend that the Seller obtain the advice of legal counsel prior to acceptance of the subsequent *offer*.

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

### **Section 2.3 Right of Cooperating Broker in Presentation of Offer**

The cooperating *Participant* (subagent, buyer agent or transaction licensee) 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 *Participant*. However, if the Seller or lessor gives written instructions to the listing *Participant* that the cooperating *Participant* not be present when an *offer* the cooperating *Participant* secured is presented, the cooperating *Participant* has the right to a copy of the Seller's written instructions. None of the foregoing diminishes the listing *Participant's* right to control the establishment of appointments for such presentations.

### **Section 2.4 Right of Listing Broker in Presentation of Counter-Offers**

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

### **Section 2.5 Reporting Sales to Bright MLS**

Status changes, including final closing of sales and sale prices, shall be reported to Bright MLS by the listing *Participant* within three (3) *business days* after they have occurred. If negotiations were carried on under Section 2(a) or (b) of these Rules and Regulations, the cooperating *Participant* shall report accepted offers and prices to the listing *Participant* within three (3) *business days* after occurrence and the listing *Participant* shall report them to Bright MLS within 24 hours after receiving notice from the cooperating *Participant*.

## **Section 2.6 Reporting Resolutions of Contingencies**

The listing broker shall report to the service that a contingency on file with the service has been fulfilled or renewed, or the agreement *cancelled*.

## **Section 2.7 Advertising of Listing Submitted to Bright MLS**

A listing shall not be advertised by any *Participant* other than the listing *Participant* without the prior consent of the listing *Participant* except as provided in Section 16 relating to Advertising of *Active* Listing Information on the Internet.

## **Section 2.8 Reporting Cancellation of Pending Sale**

The listing *Participant* shall report immediately the cancellation of any *agreement of sale* between Seller and Buyer to Bright MLS. The listing shall be changed by the *Participant* to the applicable status (**Active**, **Temporarily Off-Market**, **Withdrawn** or **Expired**).

## **Section 2.9 Optional Reporting of Closed Sales of Properties Not Subject to Listing Contracts Acceptable to Bright MLS**

A *Participant* who has participated in the *sale* of an unlisted property, a property listed subject to an open listing agreement, or a property listed by a real estate brokerage not participating in Bright MLS may after the closing report information about the property and the sale to Bright MLS for inclusion in the *Bright MLS Database*. In order to *report* such information to Bright MLS, a *Participant* must obtain written permission, from the Buyer or Seller to do so. Upon request, a *Participant* must promptly furnish a copy of the Buyer's or Seller's written permission to Bright MLS.

## **PROHIBITIONS**

### **Section 3. Information for Participants Only**

Any listing submitted to Bright MLS shall not be made available to any broker, real estate licensee, appraiser or firm who is not a *Subscriber* of Bright MLS without the prior consent of the listing *Participant*.

#### **Section 3.1 "FOR SALE" Signs**

Only the "For Sale" sign of the listing *Participant* may be placed on a property, subject to applicable laws.

#### **Section 3.2 "SOLD" Signs**

Prior to closing, only the "Sold" sign of the listing *Participant* may be placed on a property, unless the listing *Participant* authorizes the cooperating (selling) *Participant* to post such a sign, subject to applicable laws.

#### **Section 3.3 Solicitation of Listing Submitted to Bright MLS**

*Subscribers* shall not solicit a listing on property submitted to Bright MLS unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice and its Case Interpretations.

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

#### **Section 3.4 Use of Property Listing Content**

*Subscribers* shall not use *property listing content* from a prior listing of a property without the express consent of the owner of the proprietary rights in the *Listing Content*.

#### **Section 3.5 Limitation on Password Use**

*Subscribers* that utilize the *Bright MLS Service* shall not furnish, disclose or permit the use of their MLS passwords and/or MLS access codes to any person, firm, company or other entity.

In the event the password of a *Subscriber* is used in violation of Section 3.5, such *Subscriber* shall be liable to Bright MLS for all loss or damage caused by such use for each such entry and other sanctions as provided in these Rules and Regulations. The fact that the *Subscriber* did not grant consent to the use of the password shall not be a defense.

## **DIVISION OF COMMISSIONS**

### **Section 4. Compensation Specified on Each Listing**

The listing *Participant* shall specify, on each listing submitted to Bright MLS, the compensation offered to other Bright MLS *Participants* for their services in the sale/lease of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating *Participant's* performance as the procuring cause of the sale (or lease). For purposes of Section 4 of these Rules & Regulations, offers of compensation made through Bright MLS shall be applicable to brokers who are *Participants* of an MLS receiving listing data from Bright MLS.

- (a) In submitting a property to Bright MLS, the *Participant* is making a blanket unilateral offer of compensation to other Bright MLS *Participants* and shall, therefore, specify on each listing submitted to Bright MLS the compensation being offered to other Bright MLS *Participants*. Specifying the compensation on each listing is necessary because the cooperating *Participant* has the right to know what his compensation shall be prior to his endeavor to sell.

The compensation specified on *listings* submitted to Bright MLS shall appear in one of four forms. The information to be published must clearly inform *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 Bright MLS shall be expressed in one of the following forms:

- 1) As a percentage of the gross selling/leasing price.
- 2) As a percentage of the "base sales price" for new construction, with the base sales price defined as the sales price before buyer upgrades. (New construction is defined as properties to be built or properties that have not previously been occupied.) The listing *Participant* must clearly disclose this cooperative compensation arrangement in the agent remarks section of the *Bright MLS Database*.
- 3) As a definite dollar amount.
- 4) As a combination of one (1) and three (3), OR two (2) and three (3) above, as applicable.

The listing *Participant's* obligation to compensate any cooperating *Participant* 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 *Participant* and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing *Participant* to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through Bright MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing *Participant* to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing *Participant* 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 *Participant* communicated to cooperating *Participants* that the commission established in the listing agreement might not be paid.

- (b) The listing *Participant* retains the right to determine the amount of compensation offered to other *Participants* (acting as subagents, buyer agents, transaction licensees, or in other agency or non-agency capacities defined by law) which may be the same or different.

This shall not preclude the listing *Participant* from offering any Bright MLS *Participant* compensation other than the compensation indicated on any listing published by Bright MLS provided the listing *Participant* informs the other *Participant*, 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 *Bright MLS Service*. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price, a flat dollar amount or a combination of both.

- (c) Bright MLS shall make no rule requiring the listing *Participant* to disclose the amount of total negotiated commission in his listing contract, and publication of the total negotiated commission on a listing which has been submitted to Bright MLS by a *Participant* is prohibited. Bright MLS shall not disclose in any way the total commission negotiated between the Seller and the listing *Participant*.
- (d) Bright MLS shall make no rule requiring disclosure of the division or split of the total negotiated commission (i.e. the amounts or ratio of the total negotiated commission to be retained by the listing *Participant* and offered to other Bright MLS *Participants*). Publication within the MLS of the division or split of the total negotiated commission on a listing which has been submitted to Bright MLS is prohibited.

Bright MLS shall not disclose in any way the division or split of the total negotiated commission between the listing *Participant* and other Bright MLS *Participants*.

- (e) Listing *Participants* may communicate to potential cooperating *Participants* that gross commissions established in listing contracts are subject to court approval; and that compensation payable to cooperating *Participants* may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating *Participants* or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating *Participants* prior to the time they submit an *offer* that ultimately results in a successful transaction.
- (f) Bright MLS shall make no rule on the division of commissions between *Participants* and real estate brokers not participating in Bright MLS. This should remain solely the responsibility of the listing *Participant*.

#### **Section 4.1 Subscriber as Principal**

If a *Subscriber* has any interest in a property, the listing of which is to be disseminated through Bright MLS, that person shall disclose that interest when the listing is submitted to Bright MLS and such information shall be disseminated to all Bright MLS *Subscribers*.

#### **Section 4.2 Subscriber as Purchaser**

If a *Subscriber* wishes to acquire an interest in property listed with another *Participant*, such contemplated interest shall be disclosed in writing to the listing *Participant* not later than the time an *offer to purchase* is submitted to the listing *Participant*.

#### **Section 4.3 Dual or Variable Rate Commission Arrangements**

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 *Participant* without assistance and a

different commission if the *sale* results through the efforts of a cooperating *Participant*; or one in which the Seller agrees to pay a specified commission if the property is *sold* by the listing *Participant* either with or without the assistance of a cooperating *Participant* and a different commission if the *sale* results through the efforts of a Seller) shall be disclosed by the listing *Participant* by a key, code or symbol as required by Bright MLS. The listing *Participant* shall, in response to inquiries from potential cooperating *Participants*, disclose the differential that would result in either a cooperative transaction or, alternatively, in a *sale* that results through the efforts of the Seller.

If the cooperating *Participant* is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

## **SERVICE CHARGES**

### **Section 5. Service Fees and Charges**

The Board of Directors shall have authority to establish dues, fees and charges for participation in Bright MLS and to modify same from time to time.

*Participant* shall register with Bright MLS the names of all licensees having licenses issued to *Participant* or names of licensed or certified appraisers associated with the *Participant*. *Participants* shall notify Bright MLS, in writing within three *business days*, of any new *Subscriber* in the *Participant's* office or any *Subscriber* that has left the *Participant's* office.

Bright MLS shall provide *Participants* the option of a no-cost waiver of fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates and who does not access the *Bright MLS Service*.

*Participants* are financially responsible for the payment of all fees related to *Subscribers* associated with the *Participant*. Service fees are non-refundable.

Bright MLS reserves the right to apply a re-activation fee to any inactive *Subscriber* who wishes to re-instate his/her membership. (*Amended 4/2018*)

### **Section 5.1 MLS Exemption**

Upon application and approval by Bright MLS, *Subscribers* affiliated with a *Participant* may be exempted from the *Subscriber* Fee requirement for a defined period of time. The *Participant* and *Subscriber* must jointly sign and submit a letter to Bright MLS explaining in detail why the *Participant* and *Subscriber* believe that an exemption of this fee is in order. Approval of exemptions are final and at the sole discretion of Bright MLS.

## **ORIENTATION**

### **Section 6. Orientation**

Any applicant for Bright MLS participation and any *Subscriber* affiliated with a Bright MLS *Participant* who has access to and use of MLS-generated information will be required to complete an orientation program of no more than eight (8) classroom hours devoted to Bright MLS's Rules & Regulations, Bylaws, computer training related to MLS information entry and retrieval and the operation of Bright MLS within sixty (60) days after access has been provided.

## **MEETINGS**

### **Section 7. Meetings of Directors**

The meetings of the Bright MLS Board of Directors shall be held in accordance with the provisions of Bright MLS's Bylaws. Attendance by Subscribers is by invitation only.

## **CHANGES IN RULES AND REGULATIONS**

### **Section 8. Changes in Rules and Regulations**

Amendments to the Rules and Regulations of Bright MLS shall be by consideration and approval of the Board of Directors of Bright MLS, in accordance with the provisions of the Bylaws of Bright MLS.

- (a) Notice of changes in these Rules and Regulations shall be deemed given when transmitted either by facsimile, electronic communication, U.S. Mail or overnight courier to the *Participant*.

### **Section 8.1**

Should any portion of these Rules and Regulations be deemed invalid, such determination should not and will not render the entire document invalid.

## **COMPLIANCE WITH RULES**

### **Section 9. Compliance with Rules/Authority to Impose Discipline**

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

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

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

### **Section 9.1 Compliance with Rules**

For failure to pay any service charge, fee or fine within one month of the date due, and provided that at least ten (10) days' notice has been given, Bright MLS reserves the right to suspend services to a *Subscriber* until service charges, fees, fines, reinstatement fees, late fees, and any other applicable fees, are paid in full.

- (a) For failure to comply with any other rule, the provisions of Sections 10 and 10.1 shall apply.
- (b) Bright MLS may, from time to time, adopt policies consistent with these Rules and Regulations and such policies shall have the same effect, when adopted, as the Rules and Regulations.

### **Section 9.2 Participant Responsibility**

*Participant* is ultimately responsible and accountable for all *Subscribers* affiliated with the *Participant*.

## **ENFORCEMENT OF RULES**

### **Section 10. Consideration of Alleged Violations**

Bright MLS shall give consideration to all verbal and written complaints, or violations determined by Bright MLS's own investigation, having to do with an alleged violation of these Rules and Regulations.

#### **Section 10.1 Violations of Rules and Regulations**

If the alleged offense is a violation of the Rules & Regulations of Bright MLS and does not involve a charge of alleged violation of one or more of the provisions of Section 11 of the Rules & Regulations, or the Code of Ethics when applicable, or a request for arbitration, it shall be administratively considered and determined by a review panel established by the Board of Directors of Bright MLS.

Procedures for Appeal of a Sanction:

- a) Upon notification of the Bright MLS's decision to impose a sanction, the *Subscriber* may request an appeal hearing within twenty (20) calendar days after the sanction has been issued, before the Sanction Appeal Panel, comprised of three members of the Compliance Committee. Requests for appeals to the Sanction Appeal Panel must be in writing. The decision of the Sanction Appeal Panel will be provided to the *Subscriber* within 10 calendar days.
- b) The Sanction Appeal Panel's decision is final unless there is a procedural violation or a claim that any of the Rules and Regulations giving rise to the sanction has been misapplied to the facts. Appeals of the decision rendered by the Sanction Appeal Panel must be received within twenty (20) calendar days after the Sanction Appeal Panel's decision has been mailed and will be referred to a Sanction Review Board. The Sanction Review Board consists of five members of the Compliance Committee, who do not have a relationship with the appellant or have participated in the Sanction Appeal Panel hearing. The Sanction Review Board only will review a sanction appeal if there is a claimed procedural violation or if there is a claim that any of the Bright MLS Rules and Regulations giving rise to the sanction has been misapplied to the facts. The decision of the Sanction Review board will be final and provided to the Subscriber within 10 calendar days of the Sanction Review Board meeting.

Except as provided herein, the procedures shall be consistent with the procedures set forth in the ethics sections of the Code of Ethics and Arbitration Manual of the National Association of REALTORS®.

## **Section 10.2 Complaints of Unethical Conduct**

Notwithstanding the foregoing, all complaints of unethical conduct or alleged violations of Section 13 of these Rules and Regulations shall be referred by the Board of Directors of Bright MLS to the respondent's Association of primary membership or the Association of REALTORS® in which the respondent's principal place of business is in its territorial jurisdiction for appropriate action in accordance with the professional standards procedures established in that Association's Bylaws. (Note: For arbitration of disputes see Section 11.)

## **ARBITRATION OF DISPUTES**

### **Section 11. Arbitration of Disputes**

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

- (a) If all disputants are primary members of the same Association of REALTORS®, or have their principal place of business within the same Association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Association of REALTORS®.
- (b) If the disputants are primary or secondary members of different Associations of REALTORS®, or if their principal place of business is located within the territorial jurisdiction of different Associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the state Association of REALTORS® of the state in which their principal place of business is located.
- (c) If the disputants are primary members of different Associations of REALTORS® but are secondary members of the same Association they remain obligated to arbitrate in accordance with the procedures of the state Association of REALTORS® of the state in which their principal place of business is located.

Note to sub-sections (a), (b) and (c) above:

If the disputants are primary members of Associations of REALTORS® in different states or if their principal places of business are in different states then they remain obligated to arbitrate in accordance with the procedures of the state Association of REALTORS® in which the property giving cause to the dispute is located.

**Inter-association Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing inter- association agreement or, alternatively, in accordance with the Inter-board Arbitration Procedures in the *Code of Ethics and Arbitration Manual* of the National Association Of REALTORS®. Nothing herein shall preclude *Participants* from agreeing to arbitrate the dispute before a particular Association of REALTORS® or elsewhere.

## **Non-REALTOR® Requirements**

### **Section 12. Requirements for non-REALTOR® Subscribers**

*Subscribers* from non-REALTOR® offices shall be bound by all the Rules and Regulations applicable to *Subscribers* from REALTOR® offices. *Subscribers* from non-REALTOR® offices expressly agree:

- (a) To be bound by the requirements of Section 11 (Standards of Conduct for Bright MLS *Participants*) of these Rules and Regulations;



- (b) To be bound by the requirements of Section 10.2 (Complaints of Unethical Conduct or Violations of Standards of Conduct for Bright MLS *Subscribers*) and Section 12 (Arbitration of Disputes) of these Rules and Regulations, including any obligation as a non-prevailing party in an Arbitration Hearing, within ten (10 days) following receipt of the award, and if required under the policies of the REALTOR® Association(s) that conducted the arbitration, to either
- (i) pay the award to the party(ies) named in the award, or
  - (ii) deposit an amount equal to the award, pending Procedural Review, as required by the REALTOR® Association conducting the proceedings.

Failure to satisfy the award or to deposit the funds with the REALTOR® Association within this time period, if so required by the REALTOR® Association(s) that conducted the arbitration, may be considered a violation of these *Rules & Regulations* and may subject the *Participant* to disciplinary action as outlined in Section 9.

[Note: REALTORS® shall also be personally liable for any and all costs associated with arbitrations. Their obligation for said costs, however, shall be subject to the terms and conditions of their membership in an Association of REALTORS®.];

- (c) Hearings involving alleged violations of Section 13 (Standards of Conduct for Bright MLS *Subscribers*) by non-Realtors® shall be conducted by an Association of Realtors® in accordance with Section 10.2 of these Rules and Regulations.

## **STANDARDS OF CONDUCT FOR BRIGHT MLS SUBSCRIBERS**

### **Section 13.1**

*Subscribers* shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other Bright MLS *Participants* have with clients.

### **Section 13.2**

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

### **Section 13.3**

*Subscribers*, acting as subagents, buyer/tenant representatives or brokers, or transaction licensees, shall not attempt to extend a listing *Participant's* offer of cooperation and/or compensation to other brokers without the consent of the listing *Participant*.

### **Section 13.4**

*Subscribers* shall not solicit a listing for a new contract during the time in which the listing is listed exclusively with another *Participant*. However, if the listing *Participant*, when asked by the *Subscriber*, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing *Participant* and the client) the *Subscriber* may contact the owner to secure such information and may discuss the terms upon which the *Subscriber* might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

### **Section 13.5**

*Subscribers* shall not solicit buyer/tenant agreements from buyers/tenants for a new contract during the time in which the buyers/tenants are subject to exclusive buyer/tenant agreements. However, if asked by a *Subscriber*, the listing *Participant* refuses to disclose the expiration date of the exclusive

buyer/tenant agreement, the *Subscriber* may contact the buyer/tenant to secure such information and may discuss the terms upon which the *Subscriber* might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

### **Section 13.6**

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

### **Section 13.7**

The fact that an agreement has been entered into with a *Participant* shall not preclude or inhibit any other *Subscriber* from entering into a similar agreement for services after the expiration of the prior agreement.

### **Section 13.8**

The fact that a prospect has retained a *Subscriber* as an exclusive representative or exclusive broker in one or more past transactions does not preclude other Bright MLS *Subscribers* from seeking such prospect's future business.

### **Section 13.9**

*Subscribers* are free to enter into contractual relationships or to negotiate with Sellers/landlords, buyers/tenants or others for periods or listings for which they are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission on the same listing except with their informed consent.

### **Section 13.10**

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

### **Section 13.11**

In cooperative transactions, *Participants* shall compensate cooperating *Participants* (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other *Participants* without the prior express knowledge and consent of the cooperating *Participant*, in accordance with state regulations.

### **Section 13.12**

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

The following types of solicitations are prohibited:

- Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another *Participant*; and

- Mail or other forms of written solicitations of prospects whose properties are exclusively listed with another *Participant* when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current *listings*, “for sale” or “for rent” signs, or other sources of information intended to foster cooperation with *Participants*.

### **Section 13.13**

*Subscribers*, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service for the same time period.

### **Section 13.14**

*Subscribers* acting as, buyer or tenant representatives or brokers, shall disclose that relationship to the Seller/landlord’s representative or broker at first contact and shall provide written confirmation of that disclosure to the Seller/landlord’s representative or broker not later than the execution of *agreement of sale* or lease, unless otherwise required by law.

### **Section 13.15**

On unlisted property, *Subscribers* acting as buyer/tenant representatives or brokers, or transaction licensees, shall disclose that relationship to the Seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the Seller/landlord not later than execution of any purchase or lease agreement, unless otherwise required by law. *Subscribers* shall make any request for anticipated compensation from the Seller/landlord at first contact, unless otherwise required by law.

### **Section 13.16**

*Subscribers*, acting as representatives or brokers of Seller/landlords, or as subagents of listing *Participants*, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement, unless otherwise required by law.

### **Section 13.17**

*Subscribers* are not precluded from contacting the client of another *Subscriber* for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other *Subscriber’s* exclusive agreements.

Information received through Bright MLS or any other offer of cooperation may not be used to target clients of other Bright MLS *Subscribers* about providing the same type of service for the same property during the same time period as another *Participant’s* exclusive listing.

### **Section 13.18**

*Subscribers*, acting as subagents, buyer/tenant representatives or brokers, shall not use the terms of an *offer* to purchase/lease to attempt to modify the listing *Participant’s* offer of compensation to subagents, buyer/tenant representatives or brokers, nor make the submission of an executed *offer* to purchase/lease contingent on the listing *Participant’s* agreement to modify the offer of compensation.

### **Section 13.19**

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

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

#### **Section 13.20**

*Subscribers*, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude *Participants* from establishing agreements with their associated licensees governing assignability of exclusive agreements.

#### **Section 13.21**

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

#### **Section 13.22**

*Subscribers* shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices.

#### **Section 13.23**

Listing *Participants*, in response to inquiries from buyers or cooperating *Participants* shall, with the Seller's approval, disclose the existence of *offers* on the property. Where disclosure is authorized, the listing *Participant* shall also disclose whether *offers* were obtained by the listing licensee, by another licensee in the *Participants* firm, or by a cooperating broker.

#### **Section 13.24**

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

#### **Section 13.25**

*Participants*' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily, apparent manner.

#### **Section 13.26**

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

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

### **Section 13.27**

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

*Subscribers* shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

## **USE OF BRIGHT MLS DATABASE**

### **Section 14. Distribution**

*Participants* shall at all times maintain control over and responsibility for each copy of the *Bright MLS Database* licensed to them by Bright MLS, and shall not distribute any such copies to persons other than *Subscribers* who are affiliated with such *Participants* 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 Bright MLS. Use of information developed by or published by Bright MLS is strictly limited to the activities authorized under a *Subscriber'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 Bright MLS where access to such information is prohibited by law.

#### **Section 14.1 Display**

*Subscribers*, shall be permitted to display the *Bright MLS Database* 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 *Bright MLS Database*.

#### **Section 14.2 Reproduction**

*Subscribers* shall not reproduce the *Bright MLS Database* or any portion thereof except in the following limited circumstances:

*Subscribers* may reproduce from the *Bright MLS Database*, and distribute to prospective purchasers, a reasonable number of single copies of property listing data contained in the *Bright MLS Database* which relate to any properties in which the prospective purchasers are, or may, in the judgment of the *Subscribers*, be interested.

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

Any *Bright MLS Content*, 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 *Subscribers* who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparable or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any *Bright MLS content* in data

feeds available to *Subscribers* for real estate brokerage purposes must also be available to *Subscribers* for valuation purposes, including automated valuations, Bright MLS must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. Bright MLS may require execution of a third-party license agreement where deemed appropriate by the MLS. Bright MLS may require *Participants* who will use such data feeds to pay the reasonably estimated cost incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

## **USE OF BRIGHT MLS CONTENT**

### **Section 15. Limitations on Use of Bright MLS Content**

Information from *Bright MLS Content*, from statistical reports, and from any sold or comparable report of the association or MLS may be used by *Subscribers* as the bases for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other *Participants*, or which were sold by other *Participants* (as either listing or cooperating broker).

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

Based on information from Bright MLS for the period <date> through <date>.

### **Section 15.1 MLS Not Responsible for Accuracy of Information**

The *Bright MLS Content* published and disseminated by Bright MLS is communicated verbatim, without change by Bright MLS, as submitted to Bright MLS by the *Subscriber*. Bright MLS does not verify the information provided and disclaims any responsibility for its accuracy. Each *Subscriber* agrees to hold Bright MLS harmless against any liability arising from any inaccuracy or inadequacy of the information such *Subscriber* provides.

### **Section 15.2 Use of Photos**

*Subscribers* shall not use images from a listing of a property (current or prior) without the express consent of the owner of proprietary rights in the images.

## **INTERNET DATA EXCHANGE (IDX)**

### **Section 16. IDX Defined**

*IDX* affords MLS *Participants* the ability to authorize limited electronic display of their *listings* by other *Participants*.

### **Section 16.1**

The *Participant's* consent for display of their *listings* by other *Participants* pursuant to these Rules & Regulations is presumed unless precluded by law or unless a listing *Participant* affirmatively notifies Bright MLS that the listing *Participant* refuses to permit the display on either a blanket or a listing-by-listing basis. Listing *Participants* that refuse to permit other *Participants* to display their listing information on a blanket basis may not download, frame or display the aggregated listing data of other *Participants*. Even where *Participants* have given blanket authority for other *Participants* to display their *listings* on *IDX* sites, such consent may be withdrawn on a listing-by-listing basis where the Seller has prohibited all Internet display.

## Section 16.2

Participation in *IDX* is available to all *Participants* engaged in real estate brokerage who consent to display of their *listings* by other *Participants*.

- (a) *Participants* must notify the MLS of their intention to display *IDX* information, and must give the MLS direct access for purposes of monitoring and ensuring compliance with applicable rules and policies. *Participants* may authorize their affiliated *Subscribers* to participate in *IDX* by filling out a broker authorization form, available on the website.
- (i) Sharing of the *IDX Database* (or any portion thereof) with any third party not authorized by Bright MLS is prohibited. Bright MLS requires a licensing agreement (provided by Bright MLS) between Bright MLS and any third party vendor who hosts or maintains an *IDX* website or who hosts, maintains or downloads the Bright MLS *IDX Database* (or any portion thereof).

The *IDX Database* is copyrighted by Bright MLS.

- (b) *IDX Participants and Subscribers* may not use *IDX*-provided *listings* for any purpose other than display as provided in these Rules & Regulations. This does not require *IDX Participants and Subscribers* to prevent indexing of *IDX listings* by recognized search engines.
- (c) *Listings*, including property addresses, can be included in *IDX* displays except where a Seller has directed their listing *Participant* to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or *VOWs*).
- (d) *IDX Participants and Subscribers* may select the *IDX listings* they choose to display based only on objective criteria. Selection of *listings* displayed on any *IDX* website must be independently made by each *IDX Participant or Subscriber*.
- (e) *IDX Participants and Subscribers* must refresh all MLS downloads and *IDX* displays automatically fed by those download at least once every twelve (12) hours.
- (f) Except as provided in the *IDX* policy and these rules, an *IDX* site or a *Participant* or *Subscriber* operating an *IDX* site or displaying *IDX* information as otherwise permitted may not distribute, provide, or make any portion of the *IDX Database* available to any person or entity.
- (g) Any *IDX* display controlled by an *IDX Participant* or *Subscriber* must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the *IDX* policy and these rules, "control" means the ability to add, delete, modify and update information as required by the *IDX* policy and MLS rules.
- (h) Any *IDX* display controlled by an *IDX Participant* or that
  - (i) 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
  - (ii) displays an automated estimate of the market value of the *listing* (or hyperlink to such estimate) in immediate conjunction with the listing,

shall disable or discontinue either or both of those features for the Seller's *listings* at the request of the Seller. The listing *Participant* or *Subscriber* shall communicate to Bright MLS that the Seller has elected to have one or both of these features disabled or discontinued on all displays

controlled by *Participant*. Except for the foregoing, and subject to Section 16.2(i), an *IDX Participant's* or *Subscriber's IDX* display may communicate the *IDX Participant's* or *Subscriber's* professional judgment concerning any listing. Nothing shall prevent an *IDX* display from notifying customers that a particular feature has been disabled at the request of the Seller.

- (i) *IDX Participants and Subscribers* 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 Participant or Subscriber* beyond that supplied by the MLS and that relates to a specific property. *IDX Participants and Subscribers* shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing *Participant* or listing *Subscriber* for the property explaining why the data or information is false. However, *IDX Participants and Subscribers* shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

### **Section 16.3**

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

- (a) *Listings* displayed pursuant to *IDX* shall contain only those fields of data designated by Bright MLS. Display of all other fields (as determined by Bright MLS) is prohibited. Confidential fields intended only for other MLS *Participants* and *Subscribers* (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on *IDX* sites.
- (b) *IDX Participants and Subscribers* shall not modify or manipulate the data relating to another *IDX Participant's listings*.
- (c) Any search result identifying another *IDX Participant's* listing which only displays seven (7) data fields or fewer and which does not provide for the display of photos (when available) must display either the listing company's or firm's name or the Bright MLS-approved *IDX* icon. All other search results displaying another *IDX Participant's* listing must bear the listing company's or firm's name and may (but is not required to) display the Bright MLS- approved *IDX* icon.
- (d) *Subscribers* affiliated with an *IDX Participant* may display information available through *IDX* subject to:
  - (i) their *Participant's* consent and control, AND
  - (ii) the requirements of all applicable state law and/or regulation, AND Bright MLS rules.

Such a *Subscriber*, upon acceptance by Bright MLS of a broker authorization form (available from Bright MLS) to display content obtained from Bright MLS's *IDX Database* shall be considered an *IDX Subscriber*.

- (e) If the name(s) of any affiliated licensee(s) is/are co-branded with the name of the brokerage firm or company, the display of such co-branding must conform with the regulatory requirements of all states for which the *IDX Participant* chooses to display Bright MLS *IDX Database* properties.

Exception: In the event of a mutually exclusive conflict between the regulatory requirements of states for which *IDX Participant* chooses to display properties, *IDX Participant* must display Bright MLS *IDX Database* properties located in such states on separate pages or windows of the web site branded to conform with such states regulatory requirements.

- (f) On websites, print outs, or e-mails which display Bright MLS *IDX* content, the following notifications, explanations and/or disclosures must appear legibly, either on 1) the website



home page, or 2) every website page used to search for Bright MLS *IDX* content, or 3) if not on pages of the website as described in 1 or 2 above, then on all website pages which display Bright MLS *IDX* content:

- (i) An explanation of the nature of the *IDX* program
  - (ii) A disclosure that Bright MLS is the source (or a source) of the *IDX* content on the website
  - (iii) A notification that the property information being provided on or through the website is for the personal, non-commercial use of consumers and such information may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing
  - (iv) A notification that some properties which appear for sale on the website may no longer be available because they are for instance, under contract, sold or are no longer being offered for sale.
  - (v) A Bright MLS copyright notification using the following wording: “©<current year> Bright MLS, All Rights Reserved” or “Copyright <current year> Bright MLS, All Rights Reserved”
  - (vi) A disclosure that the property information displayed is deemed reliable but is not guaranteed.
- (g) Websites displaying listing content obtained through the Bright MLS *IDX* program may not use the term “MLS” or the words “Multiple” (or “Multi”) “Listing” (or “List”) “Service” (or “System”) together or in any combination in a website address (URL) or website name in a manner that would lead a reasonable consumer to believe the website is a multiple listing service or provides access for consumers to a multiple listing service. In addition, nowhere on a website that displays *listings* obtained through the Bright MLS *IDX* program may there be any assertion, reference, indication or suggestion that “the MLS”, “the Multiple Listing Service”, “the Multiple Listing System”, “Bright MLS”, “the Bright MLS Multiple Listing Service” or “the Bright MLS Multiple Listing System” can or is being searched or viewed.
- (h) *IDX Participants and Subscribers* are permitted to display *listings* obtained from sources other than Bright MLS *IDX* as follows:
- (i) Other MLS’ *IDX Listings*.  
*IDX Participants and Subscribers* may co-mingle the *listings* of other *Participants* received in an *IDX* feed with *listings* available from other MLS *IDX* feeds, provided all such displays are consistent with Bright MLS’s *IDX* rules and the *IDX Participant or Subscriber* holds participatory rights in those MLSs. As used here, “co-mingling” means that consumers are able to execute a single property search of multiple *IDX* data feeds resulting in the display of *IDX* information from each of the MLSs on a single results page; and that *IDX Participants and Subscribers* may display *listings* from each *IDX* feed on a single webpage or display.
  - (ii) *IDX Participant’s Non- Bright MLS Listings.*  
*IDX Participants and Subscribers* are permitted to display properties their company or firm currently has listed with another MLS that are not contained in the Bright *Bright MLS IDX Database (IDX Participant’s non- Bright MLS Listings)* with *listings* obtained from Bright MLS’s *IDX Database* provided that on any page or window which displays both Bright MLS *IDX Database listings* and *IDX Participant’s non- Bright MLS Listings* all such *listings* are displayed in accordance with the requirements of Bright MLS. If such *IDX Participant’s non- Bright MLS Listings* cannot be displayed in accordance with Bright MLS requirements, then such *IDX*

*Participant's non-Bright MLS Listings* must not be displayed on any page or window that displays the *listings* of other *Participants* obtained from Bright MLS's *IDX Database* but may be displayed on a separate page or window.

(iii) *Non-MLS Listings.*

*IDX Participants and Subscribers* are not permitted to display or frame non-MLS listed properties (*Non-MLS Listings*) on any page or window of their web site that displays the *listings* of other *Participants* obtained from Bright MLS's *IDX Database*. Such *Non-MLS Listings* may be displayed on a separate page or window of the *IDX Participant's* web site.

(iv) *Other Brokers' Non-IDX Listings.*

*IDX Participants and Subscribers* are not permitted to display or frame properties listed by other brokers obtained from sources other than Bright MLS's *IDX Database* or the Internet Data Exchange or Broker Reciprocity program of another MLS (*Other Brokers Non-IDX Provided Listings*) on any page or window of their web site that displays the *listings* of other *Participants* obtained from Bright MLS's *IDX Database*. Such *Other Brokers Non-IDX Provided Listings* may be displayed on a separate page or window of the *IDX Participant's* web site.

(v) *Augmentation of IDX Listings.*

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

## **VIRTUAL OFFICE WEBSITE (VOW)**

### **Section 17.1**

- (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 licensee affiliated with a *Participant* may, with his or her *Participant's* consent, operate a VOW. Any VOW of a non-principal broker or licensee is subject to the *Participant's* oversight, supervision, and accountability.
- (b) As used in Section 17 of these Rules, the term "*Participant*" includes a *Participant's* affiliated non-principal brokers and licensees – except when the term is used in the phrases "*Participant's* consent" and "*Participant's* oversight, supervision, and accountability". References to "VOW" and "VOWs" include all VOWs, whether operated by a *Participant*, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a *Participant*.
- (c) "Affiliated VOW Partner" ("AVP") refers to an entity or person designated by a *Participant* to operate a VOW on behalf of the *Participant*, subject to the *Participant's* supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a *Participant*. No AVP

has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more *Participants*. Access by an AVP to MLS Listing Information is derivative of the rights of the *Participant* on whose behalf the AVP operates a VOW.

- (d) As used in Section 17 of these Rules, the term “MLS Listing Information” refers to *active* listing information and sold data provided by *Participants* to the MLS and aggregated and distributed by Bright MLS to *Participants*.

## Section 17.2

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

## Section 17.3

- (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 Bright 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 Bright 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 Bright 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 Bright MLS, and other MLS Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with Bright 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 17.4**

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 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 17.5**

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 17.6**

- (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 17.7**

- (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 Bright 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 17.8, 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 17.8**

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

**Section 17.9**

A *Participant* shall cause the MLS Listing Information available on its VOW to be refreshed at least once every twelve (12) hours.

**Section 17.10**

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 17.11**

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

**Section 17.12**

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 17.13**

A *Participant* who intends to operate a VOW to display MLS Listing Information must notify Bright MLS of its intention to establish a VOW and must make the VOW readily accessible to the Bright 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 17.14**

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 17.15**

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 17.16**

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 Bright MLS. A *Participant's* VOW may include other appropriate disclaimers necessary to protect the *Participant* and/or Bright MLS from liability.

**Section 17.17**

A *Participant* shall limit the number of *listings* that a Registrant may view, retrieve, or download to not more than 200 current *listings* and not more than 200 sold *listings* in response to any inquiry.

**Section 17.18**

A *Participant* shall cause every 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 17.19**

A *Participant* shall cause every 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 and displayed separately from *listings* in the MLS.

### **Section 17.20**

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

## **LEGAL TERMS**

### **Section 18. Confidentiality of MLS Information**

Any information provided by Bright MLS to *Subscribers* shall be considered official information of Bright MLS. Such information shall be considered confidential and exclusively for the use of *Subscribers*.

### **Section 18.1 Lease of Bright MLS Database**

Each *Subscriber* shall be entitled to lease the *Bright MLS Database* from Bright. The *Subscriber* shall pay the fee set by Bright MLS.

*Subscribers* shall acquire by such lease only the right to use the *Bright MLS Database* in accordance with these Rules.

### **Section 18.2 Digital Millennium Copyright Act (DMCA)**

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

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

- a) Designate on its website and register with the Copyright Office an agent to receive takedown request. The agent could be the MLS *Participant*, *Subscriber*, or other individual or entity.
- b) Develop and post a DMCA-compliant website policy that addresses repeat offenders
- c) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- d) Have no actual knowledge of any complained-of infringing activity.

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

## **POLICIES**

### **Section 19. Policies Not Addressed in these Rules and Regulations**

Any matter or issue not specifically addressed in these Rules and Regulations shall be governed by the existing policies of the National Association of REALTORS®; Federal, State and Local regulations; and Bright MLS, as from time to time amended.

## **SANCTIONS FOR NON-COMPLIANCE**

### **Section 20. Requirements and Sanctions for Non-compliance**

*Listing Content* submitted to Bright MLS is subject to certain requirements, rules and regulations. This insures that the data integrity of the Bright MLS database facilitates cooperation and compensation and meets the expectations of *Subscribers*. Sanctions may be imposed and appealed pursuant to the procedures set forth in sections 9 and 10 of these Rules and Regulations.