

**RULES AND REGULATIONS OF THE  
WEST ALABAMA MULTIPLE LISTING SERVICE, INC.  
Last Amended November 2020**

**LISTING PROCEDURES**

**SECTION 1. Listing Procedures**

Listings of real property or personal property of the types described below, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the WAMLS and are taken by Participants on listing forms accepted by the Service (See Notes 1 and 2 for listing forms accepted by the Service) are required to be submitted to the Service within 72 hours (excluding weekends and holidays) after all necessary signatures of the seller(s) or property owner(s) have been obtained. Listings of property located outside the Service's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service. This Section is subject to the Clear Cooperation Policy set forth in Section 1.01 below. (Amended 3/2020)

- A. Single family home for sale or exchange.
- B. Vacant lots and acreage for sale or exchange in a residential development.
- C. Two-family, three-family, and four-family residential buildings for sale or exchange.

**NOTE 1:** The Service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is a type accepted by the Service, although a "Property Data Form" may be required as approved by the Service. However, the Service, through its legal counsel:

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

The Service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer cooperation and compensation to the other Participants of the Service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the Service.

The different types of listing agreements include:

- A. Exclusive Right-to-Sell - A listing given to one broker only, who is entitled to the commission if anyone sells the property during the term of the listing contract. The exclusive right-to-sell listing is the conventional form of listing submitted to the Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers. (Amended 2/05).
- B. Exclusive Agency - A listing given to one broker only (exclusive), who is entitled to the commission if the broker or any agent of the listing broker effects a sale, but imposes no commission obligation on the owner who sells the property to a person who was not interested in the property by efforts of the listing broker or an agent of the listing broker. The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings (indication on the first line of the remarks that this is an exclusive listing, not an exclusive right-to-sell listing) with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols used to identify any listing, other than an exclusive right-to-sell, be noted on the first line of the remarks section which is used to denote exclusive agency, and exclusive right-to-sell listings with prospect reservations. (Amended 2/05).

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

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

**SECTION 1.01 Clear Cooperation Policy**

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

**Note 1:** Exclusive listing information for required property types must be filed and distributed to other WAMLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.7 of the NAR Model MLS Rules if it is being publicly marketed, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the Service and is not currently available to other WAMLS Participants.

**Note 2:** Business days exclude Saturdays, Sundays, and all recognized Federal and State holidays.

**SECTION 1.1 Types of Properties** The following are some of the types of properties that may be published through the Service, including types described in Section 1 that are required to be filed with the service and other types that may be filed with the Service at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker: (Amended 11/91).

1. Residential
2. Commercial
3. Multiple Family
4. Rental
5. Land
6. All Classes

**SECTION 1.2 Listings Subject to Rules and Regulations of the Service**

All listings of Participants/Subscribers that are required to be submitted to the Multiple Listing Service pursuant to Section 1.0 must comply with these Rules and Regulations. By entering the listing into the Service electronically, the listing Participant/Subscriber is affirming that he/she has in his possession a bona fide listing agreement signed by the seller that meets the requirements of these Rules and Regulations including those pertaining to accuracy and timeliness of entry. He/she further affirms that changes in status will be made electronically consistent with these Rules and Regulations and subject only to a seller's (sellers') right to completely exclude a listing pursuant to Section 1.7 below. Participants/Subscribers are not required to submit the listing agreements, property data forms, or change of status forms to WAMLS at the time of listing or change. However, WAMLS reserves the right to require the Participant/Subscriber to submit the forms at any time. When asked to produce these forms, the Participant/Subscriber shall have 24 hours, excluding holidays and weekends, to do so, either by bringing them in person to WAMLS, via email, or via facsimile. Failure to produce requested forms within the specified period shall constitute a violation of these Rules and Regulations and the Participant/Subscriber will be subject to the same administrative procedures and penalties that apply in the case of other violations.

**SECTION 1.3 Listings of Participant to be Bona Fide Listings of the Participant**

Only listings that are actually listed by listing agreement with a WAMLS Participant shall be listed and published in the WAMLS. Said listings must be marketed in the name of the WAMLS Participant and the WAMLS Participant's Broker as named in the listing agreement. No Broker owning any other company can be a Participant of the WAMLS for the purpose of using the WAMLS to market listings of the other company in their name only. (Amended 9/17).

**SECTION 1.4 Detail on Listings Submitted with the Service**

A listing agreement or property data form, when filed with the Service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form including mandatory submission of photos. Photos should be property specific except where seller(s) have expressly directed that photos of their properties not appear in MLS compilations. (Revised 4/6/05, 9/3/10) (Limited Service Listings are not recommended by MLS Committee vote of 10/28/02).

### **SECTION 1.5 Limited Service Listings**

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- A. Arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- B. Accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- C. Advise the seller(s) as to the merits of offers to purchase
- D. Assist the seller(s) in developing, communicating, or presenting counter-offers
- E. Participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g. "LR" or "LS") in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property. (Adopted 05/01)

### **SECTION 1.6 Contact Information**

The listing Participant/Subscriber may not enter ANY contact information such as names, phone numbers, email addresses, web site addresses, logos, service provider information, the words "fsbo" or "for sale by owner," in the public remarks field or directions field, including photos. The remarks field is intended for property information only and the directions field is intended for property directions only. Photos should be property specific. Any listing with this information in the remarks, directions, or photos field will be deleted. (Revised 10/5/2005)

### **SECTION 1.7 Exempt Listings**

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

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

### **SECTION 1.8 Status of Listing**

#### **A. Definitions.**

- 1. Active: This listing is not subject to any contract for the purchase and sale of the subject property; OR, the listing is subject to a contract for the purchase and sale of the subject property that may be terminated by either the seller or the buyer pursuant to the terms of the contract for purchase and sale in the absence of a breach of the contract (e.g. option agreements, contracts that contain a right of first refusal, contracts with a "break clause," and contracts subject to an indeterminate contingency, such as the sale of the proposed buyer's residence).
- 2. Pending: This listing is subject to a contract for the purchase and sale of the subject property that, absent a default by the seller or the proposed buyer, can only be terminated by the proposed buyer's exercise of a contingent right to cancel the contract (e.g. buyer financing contingency or buyer inspection contingency).
- 3. Sold: This listing is where the terms of the contract for the purchase and sale of the subject property have been completed and closed and title to the subject property has passed from the seller to the buyer.
- 4. Coming Soon: This provision is hereby deleted in its entirety. All listings are subject to Section 1 and Section 1.01 hereinabove. (Amended 1/2020)

- B. Change in Status of Listing. At all times the listing status shall reflect whether the listing for the subject property is Active, Pending or Sold. Further, any change in listed price or other change in the original listing agreement shall be filed with the Service within seventy-two (72) hours (excluding weekends and holidays) after the change in the listing status has occurred.

**SECTION 1.9 Withdrawal of Listing Prior to Expiration**

Listings of property may be withdrawn from the Service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the Service, including a copy of the agreement between the seller and listing broker which authorizes the withdrawal.

Sellers do not have the unilateral right to require a MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. All withdrawals shall be submitted in writing by the listing broker within 72 hours (excluding weekends and holidays) of signed withdrawal agreement.

**SECTION 1.10 Contingencies Applicable to Active Listings**

The contingencies or conditions of any Active Listing, as defined in Section 1.8 above, shall be specified and noticed to the Subscribers and Users in the "Agent Remarks" section of the electronic listing in the multiple listing service.

**SECTION 1.11 Listing Price Specified**

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

**SECTION 1.12 Listing Multiple Unit Properties**

All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the Multiple Listing Service.

**SECTION 1.13 No Control of Commission Rates or Fees Charged by Participants**

The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and Non-Participants.

**SECTION 1.14 Expiration of Listing**

A listing filed with the Service will automatically be removed from the compilation of current listings on the expiration date specified in the listing agreement, unless prior to that date the Service receives notice that the listing has been extended or renewed.

If notice of renewal or extension is not received within ten (10) days after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the Service.

**SECTION 1.15 Termination Date on Listings**

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

**SECTION 1.16 Service Area**

Only listings of the designated types of property located within the service area of the Service are required to be submitted to the Service. Listings of property located outside the Service's service area will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

**SECTION 1.17 Listings of Suspended Participants**

When a Participant of the Service is suspended from the Service for failing to abide by a membership duty, (i.e., violation of the Code of Ethics, Association Bylaws, WAMLS Bylaws, WAMLS Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the Service beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Association (except where MLS participation without Association membership is permitted by law) or WAMLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the WAMLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

### **SECTION 1.18 Listings of Expelled Participants**

When a Participant of the Service is expelled from the Service for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association Bylaws, WAMLS Bylaws, WAMLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service by the expelled Participant shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the Service beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Association (except where MLS participation without Association membership is permitted by law) or WAMLS (or both) for failure to pay appropriate dues, fees, or charges, an Association MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the Service, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients. (Amended 10/04)

### **SECTION 1.19 Listings of Resigned Participants**

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

### **SECTION 1.20 Withdrawn Listing**

A Withdrawn Listing cannot be added in the WAMLS Service with the same List Agent if it was withdrawn in the last 10 (ten) days.

## **SELLING PROCEDURES**

### **SECTION 2. Showings and Negotiations**

Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Service shall be conducted through the listing broker except under the following circumstances:

- A. the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- B. after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers.

### **SECTION 2.1 Presentation of Offers**

The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

### **SECTION 2.2 Submission of Written Offers**

The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. (Approved 11/87).

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

The Cooperating Broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the Cooperating Broker not be present when an offer the Cooperative Broker secured is presented, the Cooperating Broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

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

### **SECTION 2.4 Right of Listing Broker in Presentation of Counter-Offer**

The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when

the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93).

#### **SECTION 2.5 Reporting Closed Sales to the Service**

- A. Status changes, including final closing of sales and sales prices, shall be reported to the multiple listing service by the listing broker within 72 hours (excluding weekends and holidays) after they have occurred. If negotiations were carried on under Section 2 hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 72 hours (excluding weekends and holidays) after receiving notice from the cooperating broker. (Amended 11/11)
- B. For Sale by Owners (FSBOs) and properties sold before listed shall be input into the WAMLS within thirty (30) days of the closing of the sales transaction. If not input into the WAMLS within thirty (30) days, the Participant is prohibited from inputting the listing into the WAMLS. The Service is permitted to delete the listing data if input is in violation of this rule. (Approved 9/7/16)

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

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

In states where the actual sales price of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the Service:

1. Categorizes sale price information as confidential, and
2. Limits use of sale price information to Participants and Subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below.

The Service may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing Participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. (Adopted 11/11)

**NOTE 3:** As established in the Virtual Office Website ("VOW") policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records.

#### **SECTION 2.6 Reporting Resolutions of Contingencies**

The listing broker shall report to the Service within twenty-four (24) hours that a contingency on file with the Service has been fulfilled or renewed, or the agreement canceled.

#### **SECTION 2.7 Advertising of Listing Filed With the Service**

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

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

The listing broker shall report immediately to the Service the cancellation of any pending sale, and the listing shall be reinstated immediately.

**SECTION 2.9      Disclosing the Existence of Offers**

Listing brokers, in response to inquiries from buyers or cooperating brokers, shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

**SECTION 2.10    Availability of Listed Property**

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

**REFUSAL TO SELL**

**SECTION 3.      Refusal to Sell**

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

**PROHIBITIONS**

**SECTION 4.      Information for Participants Only**

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

**SECTION 4.1    “For Sale” Signs**

Only the “For Sale” sign of the listing broker may be placed on a property. (Amended 11/89).

**SECTION 4.2    “Sold” Signs**

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

**SECTION 4.3    Solicitation of Listing Filed With the Service**

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

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

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

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

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

**SECTION 4.4    Use of the Terms MLS and Multiple Listing Service**

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

#### **SECTION 4.5 Unauthorized Access of WAMLS**

A WAMLS Participant shall not provide, permit, allow, or assist any unauthorized party (i.e. a Non-WAMLS Participant) to access the WAMLS service and/or WAMLS data other than in connection with the Participant's representation of a client consistent with these Rules and Regulations.

#### **SECTION 4.6 Unauthorized Use of Lockbox System**

A WAMLS Participant shall not access or use, or permit or enable others to access or use, a lockbox system, to gain access to listed or managed property on terms or conditions other than those authorized by the owner or seller.

### **DIVISION OF COMMISSIONS**

#### **SECTION 5. Cooperative Compensation Specified On Each Listing**

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

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

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

1. By showing a percentage of the gross selling price.
2. By showing a definite dollar amount. (Amended 5/10)

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

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

**NOTE 1:** The Association Multiple Listing Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the Association Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The Association Multiple Listing Service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

**NOTE 2:** The listing broker may, from time to time, adjust the compensation being offered to other Service Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised.

**NOTE 3:** The Service shall make no rule on the division of commissions between Participants and Non-Participants. This should remain solely the responsibility to the listing broker.



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

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

**NOTE 6:** Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. In any instance where a Participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other Participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating Participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential "remarks" available only to Participants and Subscribers. (Amended 5/09)

#### **SECTION 5.1 Disclosing Potential Short Sales**

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing Participants. (Amended 9/10)

#### **SECTION 5.2 Participant as Principal**

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

#### **SECTION 5.3 Participant as Purchaser**

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

#### **SECTION 5.4 Dual or Variable Rate Commission Arrangements**

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

### **SERVICE CHARGES**

#### **SECTION 6. Service Fees and Charges**

The following service charges for operation of the Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:

- A. Initial Participation Fee: An applicant for participation in the Service shall pay a one-time local application fee of \$500.00 (if joining TAR and WAMLS) or \$600.00 (if joining WAMLS Only) (as set by the MLS Board of Directors) with such fee to accompany the application.

**NOTE:** The Initial Participation Fee shall approximate the cost of bringing the Service to the Participant.

- B. MLS Only Annual Dues – Annual dues for WAMLS Only Participants are due and payable on or before December 31 preceding the calendar year for which such annual dues are due and payable. Dues are delinquent if not received by January 15. If WAMLS Only Annual dues are not received by January 15, (1) the Participant will be suspended in the MLS and (2) Participant’s Supra E-Key or Active Key will be suspended. In order to restore WAMLS services and Supra E-Key or Active Key services, Participant shall pay the previously unpaid WAMLS Only Annual Dues and a one-hundred dollar (\$100.00) reactivation late fee.
- C. Recurring/Quarterly Participation Fee: The quarterly participation fee (“Participation Fee”) of each Participant shall be set by the WAMLS Board of Directors for each licensed salesperson and licensed or certified appraiser who has access to and use of the Service, whether licensed as a broker, sales licensee or licensed or certified appraiser, or salesperson who is employed by or affiliated as an independent contractor with such Participant. Participation Fees shall be paid quarterly. The Service shall bill Participation Fees by the last business day of the preceding quarter and such fees shall be due by the 15<sup>th</sup> day of the first month of the quarter. Any access to or use of the WAMLS during the quarter will result in the full quarterly Participation Fee being owed, except for New Members who join the WAMLS who will be billed on a prorated basis for the quarter based on the month in the quarter in which they join the WAMLS. The quarterly Participation Fee shall not be refundable. If quarterly Participation Fees are not received by the 15<sup>th</sup> day after the billing date, (1) the Participant will be suspended in the WAMLS and (2) Participant’s Supra E-Key or Active Key will be suspended. In order to restore WAMLS services and Supra E-Key or Active Key services, Participant shall pay the previously unpaid Participation Fees and a one hundred dollar (\$100.00) reactivation late fee. Any participant whose credit card is declined two (2) or more times during any calendar year shall be prohibited from using a credit card for payment of quarterly participation fees. (Amended 5/4/16)
- NOTE:** Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of the MLS information as subscribers may, at their discretion, charge recurring fees. (Amended 11/17)
- D. MLS Subscription Waiver and Certification of Non-Use: MLSs must provide Participants the option of a no-cost wavier of MLS fees, dues, and charges for any licensee who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that Broker Participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of waiver if violated.\* (Amended 11/18).

## **LOCKBOXES**

### **SECTION 7. Electronic Keypad and Lockbox System**

Lockboxes and Keypads are owned by the Tuscaloosa Association of REALTORS® and loaned to Agents who are Participants in the WAMLS. Agents are responsible for all Electronic Lockboxes checked out in their name. Agents are responsible for all Keypads issued in their name. (Amended 3/21/16)

Upon termination of membership or participation from WAMLS, Agents must promptly return their Keypad and Electronic Lockboxes to the Association office and pay any outstanding amounts owed.

Each Agent is allowed one Lockbox per Active and Pending Residential Listing, plus one extra. After a listing that has been assigned a Lockbox is taken off the market, an Agent has one week (7 days) to return the Lockbox or notify the WAMLS Services Director of reassignment to another listing. Failure to return an unassigned Lockbox shall result in a \$100.00 fine per Lockbox to the Agent. A warning of the impending fine will notice by phone and email. An audit is done by the MLS Services Director each quarter to make sure Lockboxes are appropriately distributed to insure there is adequate inventory in the Association office. When a Lockbox is lost, stolen, or damaged, the Agent will be required to pay the actual cost to TAR for the Lockbox. Defective Lockboxes are returned to Supra for repair/replacement.

Please refer to the section titled “Supra Key System – Electronic Lockboxes and Keypads” in the Tuscaloosa Association of REALTORS® Policies Manual for additional information regarding Supra Lockboxes and Electronic Keypads.

### **SECTION 8. Keypads**

- A. An appointment must be made prior to any showing of property which is accessed by the Electronic Keypad System with the exception of properties advertised in the Service as vacant, show anytime, no code or with any other description specifically stating the home can be shown at any time without an appointment.

**NOTE 1:** The agent for whom the appointment is made should be the agent (or a member of the agent's firm/company) who enters the house for the showing appointment. A consumer cannot enter a house without being accompanied by the agent (or a member of the agent's firm/company) who made the appointment.

- B. Personal Identification Numbers (PIN). Allowing the PIN to be written on the Keypad or the Keypad holder, allowing any other easy access to the PIN, or allowing the use of or using another member's keypad will subject the violator(s) to a fine of \$1,000.00 per member for the first offense and \$2,000.00 for the second offense. A third violation will be subject to review by the WAMLS Board of Directors for sanction determination. In addition, it is a violation for a member to allow a non-member to use the member's keypad.

## **COMPLIANCE AND ENFORCEMENT OF RULES AND REGULATIONS**

### **SECTION 9. Compliance with Rules – Authority to Impose Discipline**

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

- A. Letter of warning;
- B. Letter of reprimand;
- C. Attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location and duration;
- D. Appropriate, reasonable fine not to exceed \$15,000;
- E. Suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year; and/or
- F. Termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Revised 11/14)

**NOTE:** A Participant (or User/Subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a Participant (or User/Subscriber) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the WAMLS 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. (Amended 5/14)

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

### **SECTION 9.1 Applicability of Rules to Users and/or Subscribers**

Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the Service are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the User or Subscriber has signed an agreement acknowledging that access to and use of Service information is contingent on compliance with the Rules and Regulations. Further, failure of any User or Subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all Users or Subscribers affiliated with the Participant.

## **MEETINGS**

### **SECTION 10. Meetings**

The meetings of the Participants in the Service or the Board of Directors of the West Alabama Multiple Listing Service, Inc. for the transaction of business of the Service: The West Alabama Multiple Listing Service Board of Directors shall meet for the transaction of its business at a time and place to be determined by the Board or at the call of the President.

### **SECTION 10.1 Conduct of the Meetings**

The President, or Immediate Past President, shall preside at all meetings, or in their absence, a temporary chairperson from the membership of the Board shall be named by the President or, upon his/her failure to do so, by the Board.

### **Section 10.2 Meetings Policy**

No electronic devices are permitted in Board of Directors' meetings. This includes cell phones, laptops, tablets, smart watches, Blue Tooth enabled devices, and any other device capable of recording conversations or taking photos or videos.

## **ENFORCEMENT OF RULES OR DISPUTES**

### **SECTION 11. Consideration of Alleged Violations**

The Board of Directors shall give consideration to all written complaints having to do with violations of the Rules and Regulations. By becoming and remaining a Participant, each Participant agrees to be subject to these Rules and Regulations, the enforcement of which are at the sole discretion of the Board of Directors. (Amended 11/18)

### **SECTION 11.1 Violations of Rules and Regulations**

If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the WAMLS Board of Directors, and if a violation is determined, the WAMLS Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and Rules and Regulations of the Tuscaloosa Association of REALTORS® within twenty (20) days following receipt of the Directors' decision.

Alleged violations involving unethical conduct shall be referred to the Professional Standards Committee of the Tuscaloosa Association of REALTORS® for processing in accordance with the Professional Standards procedures of the Association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Tuscaloosa Association of REALTORS® Board of Directors. (Amended 11/18)

### **SECTION 11.2 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the WAMLS Board of Directors to the Tuscaloosa Association of REALTORS® for appropriate action in accordance with the Professional Standards procedures established in the Association's Bylaws. (Amended 11/88)

### **SECTION 11.3 Complaints of Unauthorized Use of Listing Content**

Any Participant who believes another Participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the WAMLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the WAMLS not more than sixty (60) days after the alleged misuse was first identified. No Participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 11.3 of the WAMLS Rules and Regulations.

Upon receiving a notice, the WAMLS Board of Directors will send the notice to the Participant who is accused of unauthorized use. Within ten (10) days of receipt, the Participant must either: (1) remove the allegedly unauthorized content, or (2) provide proof to the WAMLS Board of Directors that the use is authorized. Any proof submitted will be considered by the WAMLS Board of Directors, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the WAMLS Board of Directors determines that the use of the content was unauthorized, the WAMLS Board of Directors may issue a sanction pursuant to Section 9 of the WAMLS Rules and Regulations, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the WAMLS Rules and Regulations, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the WAMLS Board of Director's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. (Adopted 11/18)

### **SECTION 11.4 WAMLS Rules Violations**

WAMLS Participants may not take legal action against another Participant for alleged rules violation(s) unless the complaining Participant has first exhausted the remedies provided in these WAMLS Rules and Regulations. (Adopted 11/18)

## **CONFIDENTIALITY OF WAMLS INFORMATION**

### **SECTION 12. Confidentiality of WAMLS Information**

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

### **SECTION 12.1 WAMLS Not Responsible For Accuracy of Information**

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

### **SECTION 12.2 Access to Comparable and Statistical Information**

This information is provided for the exclusive use of WAMLS Participants and Subscribers and individuals affiliated with WAMLS Participants and Subscribers who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise provided in these Rules and Regulations.

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

### **SECTION 13.**

By the act of submission of any property listing content to the WAMLS, the Participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these WAMLS Rules and Regulations, and also thereby does grant to the WAMLS license to include the property listing content in its copyrighted MLS compilation, and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.

Each participant who submits listing content to the WAMLS agrees to defend and hold the WAMLS and every other Participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. (Amended 11/18)

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

**NOTE:** 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 the 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 \$150,000.00 per work. For this reason, it is highly recommended that MLSs, Participants, and Subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

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

5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

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

#### **SECTION 13.1**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the West Alabama Multiple Listing Service, Inc. and in the copyrights therein, shall at all times remain vested in the West Alabama Multiple Listing Service, Inc.

#### **SECTION 13.2**

Each Participant shall be entitled to purchase from the Service a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such Compilation. The Participant shall pay for each such copy the designated fee set by the Service. (Amended 10/04)

Participants shall acquire by such purchase only the right to use the MLS Compilation in accordance with these Rules and Regulations.

\* The term WAMLSI Compilation, as used in **Sections 13 and 14** herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants.

\*\* This section should not be construed to require the Participant to purchase a copy of the MLS Compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the Service (and selling real property) and who does not, at any time, have access to or use of the MLS information of the West Alabama Multiple Listing Service, Inc. (Amended 10/04)

### **USE OF COPYRIGHTED WAMLS COMPILATIONS**

#### **SECTION 14. Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation sold to them by the WAMLS and shall not distribute any such copies to persons other than Subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other Subscribers as authorized pursuant to the governing documents of the Service. Use of information developed by or published by WAMLS is strictly limited to the activities authorized under a Participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey Participation or Membership or any right of access to information developed by or published by WAMLS where access to such information is prohibited by law. (Amended 10/04)

#### **SECTION 14.1 Display**

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

#### **SECTION 14.2 Reproduction**

Participants or their affiliated licensees shall not reproduce any WAMLS compilation or any portion thereof, except in the following limited circumstances:

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

\*It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not

limited to, the total number of listings in the WAMLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any WAMLS content in data feeds available to Participants for real estate brokerage purposes must also be available to Participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require Participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations. (Amended 5/14)

**SECTION 14.3** The following disclaimer will be placed on all reproduction from the Service: "This information is subject to error and should be validated before reliance. The West Alabama Multiple Listing Service, Inc., (WAMLSI), does not guarantee the accuracy of this information."

## **USE OF MLS INFORMATION**

### **SECTION 15. Limitations on Use of WAMLS Information**

Use of information from WAMLS compilation of current listing information, from the WAMLS statistical report, or from any sold or comparable report of the WAMLS for public mass-media advertising by a WAMLS Participant or in other public representations, may not be prohibited.

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

"This representation is based in whole or in part on data supplied by the West Alabama Multiple Listing Service, Inc. WAMLSI does not guarantee nor is in any way responsible for its accuracy. Data maintained by the Service may not reflect all real estate activity in the market."

## **CHANGES IN RULES AND REGULATIONS**

### **SECTION 16. Changes in Rules and Regulations**

Amendments to the Rules and Regulations of the Service shall be by consideration and approval by a two-thirds vote of the Board of Directors of the WAMLS, subject to final approval by the Board of Directors of the Tuscaloosa Association of REALTORS® (shareholder).

## **WAMLS PENALTIES AND FINES**

### **SECTION 17.**

The WAMLS Board of Directors shall have the right to fine, suspend or expel a Participant from the Service for violations of WAMLS Service Rules and Regulations. In order to expel a Participant, there must be a two-thirds affirmative vote of the Board of Directors of

WAMLS. The WAMLS Board shall have the right to have listings with incorrect or incomplete data removed from the Service until such information is corrected or completed.

### **SECTION 17.1**

The quarterly WAMLS Participation Fee shall be billed by the last business day of the preceding quarter and such fees shall be due by the 15<sup>th</sup> day of the first month of the Quarter. If quarterly Participation Fees are not received by the 15<sup>th</sup> day of the first month of the Quarter, (1) the Participant will be suspended in the WAMLS and (2) Participant's Supra E-Key or Active Key will be suspended. In order to restore WAMLS services and Supra E-Key or Active Key services, Participant shall pay the previously unpaid Participation Fees and a one hundred dollar (\$100.00) reactivation late fee. Participant agrees to notify the Service of any changes to Participant (Qualifying Broker) not later than ten (10) business days of said change. Failure to do so will result in termination of MLS service of Participant and Participant's firm. (Amended 3/21/16)

### **SECTION 17.2**

The administrative staff of the MLS Service for the WAMLS Board shall be authorized to enforce the Rules and Regulations of the WAMLS.

### **SECTION 17.3 Fines and Penalties for Violations**

Failure to pay fines for WAMLS violations within 30 days will result in automatic suspension from the Service. Service will be reinstated upon payment of the fine. WAMLS violations involving Data Integrity or Status Changes must be corrected within seventy-two (72 hours) from notification. If the violation is not corrected in the Service within the required time period, it will result in automatic suspension in the WAMLS service until such correction is made. Notification of WAMLS violations will be made by the MLS Services Director or the Chief Executive Officer by mail, email, and/or phone. (Amended 1/18)

#### **A. Unauthorized Access – Misuse of MLS Information (1<sup>st</sup> Violation: \$1000 Fine; 2<sup>nd</sup> Violation: \$2000 Fine; 3<sup>rd</sup> Violation: Review by WAMLS Board of Directors for Sanction Determination)**

- Providing WAMLS access to any unauthorized party (any non-WAMLS Participant)
- Including a Licensed Agent who is not an Active WAMLS Participant in a listing published in the WAMLS
- Inputting a listing of a non-WAMLS Participant into the WAMLS
- Filing a false WAMLS Membership Application
- Reproducing and Distributing unauthorized portions of the WAMLS Database
- Unauthorized computer download or transmission of WAMLS Data
- Use of WAMLS Data for other than the intended/permitted purposes
- Violating IDX rules
- Violating VOW rules
- Providing Express Key or eKey usage/access to any unlicensed individuals (including but not limited to, the public, service providers, lenders, etc.). Supra service will be terminated and Participant WILL NOT be assigned any form of Supra service for duration of WAMLS membership
- Providing Express Key or eKey usage/access to any Licensee other than the Assigned User
- Providing unauthorized access to a listed property

#### **B. Data Integrity – Manipulation of WAMLS Content (Review by WAMLS Board of Directors)**

Failure to properly specify or intentional manipulation of listing location information, including but not limited to:

- Property Type
- City
- MLS Area/MLS GEO Map
- County
- Address
- 5 Digit Zip Code
- Manipulation of property history and/or Days-On-Market information

#### **C. Loading Listings and Reporting Changes by Deadline (1<sup>st</sup> Violation: \$250; 2<sup>nd</sup> Violation: \$500; 3<sup>rd</sup> Violation: Review by the WAMLS Board of Directors for Sanction Determination)**

- Failure to maintain current, accurate WAMLS Participant email address
- Failure to notify the WAMLS of termination, transfer or addition of a Licensee under the Participant's license within 10 business days
- Listing not loaded within 72 hours (excluding weekends and holidays) after seller's signature obtained
- Listing status changes not reported within 72 hours (excluding weekends and holidays)



- Failure to enter accurate information in a required field
- Failure to provide documentation within 24 hours (excluding weekends and holidays) after requested by WAMLS Staff
- Failure to specify a listing as a Limited Service Listing
- Failure to provide the full gross listing price as listed in Listing Agreement
- Failure to report closed sales within 72 hours after occurring (excluding weekends and holidays)
- Reporting a closed sale or a sale price of a “For Sale By Owner” (FSBO) and properties sold before listed more than 30 days after closing

**D. Data Integrity (1<sup>st</sup> Violation: \$500 Fine; 2<sup>nd</sup> Violation: \$1000 Fine; 3<sup>rd</sup> Violation: Review by WAMLS Board of Directors for Sanction Determination)**

- Posting a listing on WAMLS without having a signed listing agreement
- Violating the Clear Cooperation rule set forth in Section 1.01 of the WAMLS Rules and Regulations
- Off Market/Pocket Listings – withholding a valid listing from the WAMLS without a signed Seller Opt-Out Form
- Placing URLs, showing instructions, Open House information, access codes, lockbox combinations, photos, commission/bonus information, or contact information in the Public Remarks Field or Directions Field. This includes, but is not limited to, names, phone numbers, email addresses, websites, logos, service provider information, and the words “FSBO” or “For Sale By Owner.”
- No photo – a minimum of one photo that is property specific is required
- Entering incorrect Selling Agent or sale price information when closing a listing
- Entering any data in a knowingly and willful manner to subvert the Matrix MLS Listing Data Checker
- Entry of inaccurate or non-text information (ex. watermarks, logos) anywhere in a listing
- Use of any data field for a purpose other than its intended use
- Use or reuse of any photograph or remarks without proper authorization
- Inappropriate/inaccurate photos, virtual tours, and videos
- Photos, Virtual Tours, and Video Images containing text or embedded links
- Branded Slide Shows, Virtual Tours (“VTs”) or Videos (Agent, Office, or Company Information). VT must contain the letters “WAMLS” or be “unbranded” or “non-branded” in the URL.
- Bonus or incentives entered in any field other than Agent Remarks
- Failure to disclose Variable/Dual Rate Commission
- Failure to disclose Brokerage Representation
- Advertising a listing filed with the WAMLS without written permission (does not apply to IDX or syndication through WAMLS approved providers)
- Extending a listing without written authorization of the seller
- Failure to secure seller(s), broker, or office manager written authorization
- Use of Showing Service remarks for other than intended use
- Failure to specify on a listing filed with the WAMLS Service the compensation being offered to other WAMLS Participants

**Note 1:** Brokers are responsible for all Agents/Teams or Office Administrators who have add/edit capabilities and are subject to fines and discipline for violations of WAMLS Rules and Regulations.

**Note 2:** Listing agents are responsible for unlicensed assistants or authorized team members who add/edit listings on their behalf.

**ARBITRATION OF DISPUTES**

**SECTION 18. Arbitration of Disputes**

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

- A. If all disputants are 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 the Tuscaloosa Association of REALTORS®.

- B. If the disputants are 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 Alabama Association of REALTORS®.

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

**Awards:** The obligation to arbitrate includes the duty to either 1) pay an award to the party(ies) named in the award or 2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or deposit the funds with the Association within ten (10) days may be considered a violation of the WAMLS rules and may subject the participant to disciplinary action at the sole discretion of the WAMLS. (Adopted 11/15)

#### **SECTION 18.1 Mediation**

Mediation is a voluntary process in which disputing parties meet with a mediator appointed by the Association to create a mutually acceptable resolution of the dispute, rather than having a decision imposed by an arbitration hearing panel. Mediation can occur before or after the Grievance Committee reviews requests for arbitration, depending on local Association policy. If a dispute is resolved in mediation, the parties sign an agreement spelling out the terms of the settlement, and no arbitration hearing is held.

### **STANDARDS OF CONDUCT FOR WAMLS PARTICIPANTS**

#### **SECTION 19. Standards of Conduct for WAMLS Participants**

##### **STANDARD 19.1**

WAMLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other WAMLS Participants have with clients. Participants, Users, and 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.

##### **STANDARD 19.2**

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

##### **STANDARD 19.3**

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

##### **STANDARD 19.4**

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

##### **STANDARD 19.5**

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

##### **STANDARD 19.6**

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

**STANDARD 19.7**

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

**STANDARD 19.8**

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

**STANDARD 19.9**

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

**STANDARD 19.10**

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

**STANDARD 19.11**

In cooperative transactions, WAMLS Participants shall compensate cooperating WAMLS 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 WAMLS Participants without the prior express knowledge and consent of the cooperating broker.

**STANDARD 19.12**

WAMLS Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another WAMLS 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 WAMLS Participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another WAMLS 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 WAMLS Participants.

**STANDARD 19.13**

WAMLS Participants, prior to entering into 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.

**STANDARD 19.14**

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

**STANDARD 19.15**

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

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

**STANDARD 19.16**

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

**STANDARD 19.17**

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

**STANDARD 19.18**

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

**STANDARD 19.19**

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

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

**STANDARD 19.20**

Participants, Users, and 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.

**STANDARD 19.21**

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

**STANDARD 19.22**

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

**STANDARD 19.23**

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

Websites of licensees affiliated with a Participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner. (Amended 9/10)

**STANDARD 19.24**

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

- a. Engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. Manipulate (e.g., presenting content developed by others) listing 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. Otherwise mislead consumers, including use of misleading images. (Amended 1/18)

**STANDARD 19.25**

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

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

**CO-LISTINGS**

**SECTION 20. Co-Listings**

Co-listings that are listed with more than one broker are to be submitted to the Service by only one broker and placed in the remarks section of the listing information.

**ORIENTATION**

**SECTION 21. Orientation**

Any applicant for WAMLS participation and any licensee (including licensed or certified appraisers) affiliated with an WAMLS Participant who has access to and use of WAMLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the WAMLS Rules and Regulations and computer training related to WAMLS information entry and retrieval and the operation of the WAMLS within 180 days after access has been provided. (Amended 11/04)

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

Any applicant for WAMLS participation who elects to complete the mandated WAMLS Orientation remotely must complete the online training within thirty (30) days and provide a signed and notarized "Affidavit of Completion of Online WAMLS Orientation Training" to the MLS Services Director.

Failure to complete the required WAMLS orientation program within the requisite time period for either classroom or remote training will result in termination of WAMLS access.

**VIRTUAL OFFICE WEBSITES (VOWs)**

**SECTION 22.1 VOW Defined**

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

B. As used in Section 22 of these Rules, the term "Participant" includes a Participant's affiliated non-principal brokers and sales licensees – except when the term is used in the phrases "Participant's consent" and "Participant's oversight, supervision, and accountability." References to "VOW" and "VOWs" include all Virtual Office Websites, whether operated by a Participant, by a non-principal broker or sales licensee, or by an "Affiliated VOW Partner" ("AVP") on behalf of a Participant.

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 22 of these Rules, the term "MLS Listing Information" refers to active listing information and sold data provided by Participants to the WAMLS and aggregated and distributed by the WAMLS to Participants.

### **SECTION 22.2**

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 22.3**

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

i. The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

ii. The Participant must obtain the name of and a valid email address for each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.

iii. The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

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

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

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

i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

ii. That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use;

- iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
- iv. That the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant’s consideration of the purchase or sale of an individual property; and
- v. That the Registrant acknowledges the MLS’s ownership of and the validity of the MLS’s copyright in the MLS database.

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

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

**SECTION 22.4**

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

**SECTION 22.5**

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

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

**SECTION 22.6**

A. A Participant’s VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller’s listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as 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.
- B.  I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.

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

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Initials of Seller

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

#### **SECTION 22.7**

- A. Subject to subsection (b), below, a Participant's VOW may allow third-parties:

- (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- (ii) to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

- B. Notwithstanding the foregoing, at the request of a seller, the Participant shall disable or discontinue either or both of those features described in Subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 22.8, 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 22.8**

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

#### **SECTION 22.9**

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

#### **SECTION 22.10**

Except as provided in these rules, in 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 22.11**

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

#### **SECTION 22.12**

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 22.13**

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

#### **SECTION 22.14**

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 22.15**

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

a. expired and withdrawn listings

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

b. the compensation offered to other MLS participants

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

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

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

### **Section 22.16**

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

### **Section 22.17**

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

### **Section 22.18**

A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

### **Section 22.19**

A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 75 current listings and not more than 25 sold listings in response to any inquiry.

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

### **Section 22.20**

A participant shall require that Registrants' passwords be reconfirmed or changed every 30 days.

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

### **Section 22.21**

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

### **Section 22.22**

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

### **Section 22.23**

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

### **Section 22.24**

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

### **Section 22.25**

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

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

### **SECTION 23. IDX Defined**

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

#### **SECTION 23.1 Authorization**

Participants' consent for display of their listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket basis or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame, or display the aggregated MLS data of other Participants. Even where Participants have given blanket authority for other Participants to display their listings through IDX, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other forms of display or distribution. (Amended 5/17)

#### **SECTION 23.2 Participation**

Participation in IDX is available to all MLS Participants who consent to display of their listings by other Participants. (Amended 11/09).

##### **SECTION 23.2.1**

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

##### **SECTION 23.2.2**

MLS Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require Participants to prevent indexing of IDX listings by recognized search engines. (Amended 8/14).

##### **SECTION 23.2.3**

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs), or other forms of electronic display or distribution. (Amended 11/17)

##### **SECTION 23.2.4**

Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX site must be independently made by each participant. (Amended 5/17)

##### **SECTION 23.2.5**

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

##### **SECTION 23.2.6**

Except as provided in the IDX policy and these rules, an IDX site or a Participant or User operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 5/12)

### **SECTION 23.2.7**

Any IDX display controlled by a Participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 8/14).

### **SECTION 23.2.8**

Any IDX display controlled by a Participant or Subscriber that:

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

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 22.2.9, a Participant's IDX display may communicate the Participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its costumers that a particular feature has been disabled at the request of the seller. (Adopted 5/12)

### **SECTION 23.2.9**

Participants shall maintain a means (e.g., email address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, Participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 5/12)

### **SECTION 23.2.10**

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

### **SECTION 23.2.11**

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

### **SECTION 23.2.12**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g. "thumbnails," text messages, "tweets," etc. of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked through the device's application. (Amended 5/17)

## **SECTION 23.3 Display**

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

### **SECTION 23.3.1**

Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS Participants and Users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. (Amended 5/12)

**SECTION 23.3.1.1**

The type of listing agreement (e.g., exclusive right-to-sell, exclusive agency, etc.) may not be displayed.

**SECTION 23.3.2** Deleted by NAR in May 2015

**SECTION 23.3.3** Deleted by NAR in May 2017

**SECTION 23.3.4**

All listings displayed pursuant to IDX shall identify the listing agent.

**SECTION 23.3.5**

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

**SECTION 23.3.6** Deleted by NAR in November 2006

**SECTION 23.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information. The MLS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MLS from liability. Displays of minimal information (e.g. "thumbnails," text messages, "tweets," etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked through the device's application. (Amended 5/17)

**SECTION 23.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g. "thumbnails," text messages, "tweets," etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. Displays of minimal information (e.g. "thumbnails," text messages, "tweets," etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked through the device's application. (Amended 5/17)

**SECTION 23.3.9**

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

**SECTION 23.3.10**

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

**SECTION 23.3.11**

Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. The MLS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MLS from liability. Displays of minimal information (e.g. "thumbnails," text messages, "tweets," etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked through the device's application. (Amended 5/17)

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

**SECTION 23.3.12**

Display of expired and withdrawn listings is prohibited. (Amended 11/15)

\*Note: If “sold” information is publicly accessible, display of “sold” listings may not be prohibited.

**SECTION 23.3.13**

Display of seller’s(s”) and/or occupant’s(s’) name(s), phone number(s), and email address(es) is prohibited.

**SECTION 23.3.14**

Participants are required to employ appropriate security protection such as firewalls on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS.

**SECTION 23.3.15**

Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

**SECTION 23.3.16**

Advertising (including co-branding) on pages displaying IDX-provided listing is prohibited.

**SECTION 23.4 Service Fees and Charges**

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

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**Approvals**

Dated this the 6<sup>th</sup> day of November, 2020.

*Amanda Corder*

Amanda Corder, President  
West Alabama Multiple Listing Service, Inc.

*Kinya Winn*

Kinya Winn, Secretary/Treasurer  
West Alabama Multiple Listing Service, Inc.

*Shay Lawson*

Shay Lawson, Chief Executive Officer  
West Alabama Multiple Listing Service, Inc.