



**MARTHA'S VINEYARD**  
**MULTIPLE LISTING SERVICE**

# RULES & REGULATIONS

Updated September 2022

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## Article I Listing Procedures

### Section 1.1 Listing Procedures

The service area of the Martha's Vineyard Multiple Listing Service, Inc. (MVMLS) is Dukes County, Massachusetts. The mandatory-listing area of the MVMLS is Dukes County, Massachusetts. Listings of real or personal property of the following types, which are listed subject to a real estate broker's license and are located within the mandatory-listing area of the MVMLS and are taken by Participants on an **exclusive right to sell** or **exclusive agency** listing contract shall be delivered to the Multiple Listing Service (MLS) office within forty-eight (48) hours after all necessary signatures of seller(s) have been obtained.

- (a) residential homes for sale or exchange
- (b) land for sale or exchange
- (c) multi-family residential buildings for sale or exchange

The MLS shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the MLS. However, the MLS, through its legal counsel:

- (a) May reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants
- (b) Assure that no listing form filed with the MLS establishes, directly or indirectly, any contractual relationship between the MLS and the client (buyer or seller)

The MLS 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 compensation to the other participants of the MLS acting as buyer agents or facilitators.

The MLS does not accept net listings because they are deemed unethical and, in Massachusetts, illegal. Open listings are not accepted because the nature of an open listing does not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

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

The Service also accepts the Exclusive Agency Listings which authorize 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 either an unlimited or restricted basis.

Exclusive Agency Listings and Exclusive Right to Sell Listings with named prospects exempted must be clearly distinguished from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by Exclusive Right to Sell Listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote Exclusive Agency and Exclusive Right to Sell Listings with prospect reservations.

The MVMLS accepts listings that are subject to auction.



### Section 1.1.1 Property Transfer Lead Paint Notification

All Residential and Multi-Family properties submitted into the MLS built prior to 1978 must include a fully executed copy of the Property Transfer Lead Paint Notification form or the Lead Paint Disclosure Opt-Out form in order to go live in the system. Listings will be in an unapproved status if no documentation is attached.

### Section 1.1.2 Clear Cooperation

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS 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.

### Section 1.2 Types of Properties

Following are the property types that may be published through the MLS, provided that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker.

- Residential
- Land
- Multi-Family
- Commercial

### Section 1.3 Listing Subject to Rules and Regulations of the MLS

Any listing taken on a contract to be filed with the MLS is subject to the rules and regulations, and policies of the MLS upon signature of the seller(s).

### Section 1.4 Detail on Listings Filed with the MLS

A listing agreement and listing input form, when filed with the MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the listing input form.

#### Section 1.4.1

Participants and subscribers are required to submit accurate listing data and required to correct any known errors.

### Section 1.5 Photographs on Listings

Each listing submitted to the MLS is required to have a minimum of one (1) photograph. Photographs must also include one (1) of which is exterior and front-facing. Additional policy pertaining to photographs in the MLS may be found in Appendix A-3.

### Section 1.6 MLS Entry-Only Listings

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

- (a) Arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller
- (b) Accept and present to the seller offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller

- (c) Advise the seller as to the merits of offers to purchase
- (d) Assist the seller 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

Listings shall be identified using the appropriate Special Listing Conditions field in the MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller, and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

### Section 1.7 Office Exclusive and Delayed Listings

If the seller of a property refuses to permit the listing to be disseminated by the MLS, the Participant may then take the listing as an office exclusive, and the exclusive listing agreement shall be filed with the MLS but not disseminated to the Participants. Filing of the listing agreement should be done within forty-eight (48) hours and must be accompanied by certification signed by the seller that they do not wish to have the listing disseminated by the MLS.

If the seller of a property would like to keep a listing from dissemination by the MLS until a specific date or for a specified period of time, the Participant may then take the listing as a delayed listing and the exclusive listing agreement shall be filed with the MLS but not disseminated to the Participants. Filing of the agreement should be done within forty-eight (48) hours and must be accompanied by certification signed by the seller that they do not wish to have the listing disseminated by the MLS until a specific date or specified period of time.

MLS Participants must distribute office exclusive or delayed listings within one (1) business day once the listing is publicly marketed. More information about office exclusive and delayed listings can be found in Appendix A-1.

### Section 1.8 Changes of to the Listing

Listings to be made temporarily off market, extended, or cancelled shall be allowed only when authorized in writing by the seller and shall be filed with the MLS within twenty-four (24) hours after the authorized change is received by the listing broker.

Additional changes to the original listing agreement, including but not limited to price changes shall be made in the MLS within twenty-four (24) hours after the authorized change is received by the listing broker. Additional changes shall be made only when authorized in writing by the seller and shall be provided to the MLS upon request within twenty-four (24) hours.

In the case where the listing broker or agent is also the owner of the property a copy of the authorized change form is not required by the MLS. However, if there are multiple sellers of the property, an authorized change form is still required.

### Section 1.9 Removal of a Listing Prior to Expiration

Properties listed in the MLS may be cancelled by the listing broker before the expiration date of the listing agreement, provided notice is filed with the MLS, including a copy of the agreement between the seller and the listing broker which authorizes the cancellation as indicated in Section 1.7.

Listings to be updated to the Cancelled status when authorized in writing may only be updated in the MLS by the Participant or their authorized representative.

Sellers do not have the unilateral right to require an MLS to cancel a listing without the listing broker's concurrence; however, if the seller can document that his exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the seller.

If a cancelled listing is to be made active in the MLS by the same listing agent within thirty (30) days of the cancellation, then the current listing may be made active in the MLS with an updated expiration date.

If a cancelled listing is to be made active in the MLS by the same listing agent more than thirty (30) days after the cancellation of the listing, then the listing shall be published as new in the MLS.

Listings of property in the MLS may be made temporarily off market by the listing broker at the request of the seller, given the exclusive relationship has not been terminated.

Listings that are in the temporarily off market status shall automatically expire on the expiration date within the listing agreement or most recent extension agreement. Listing brokers who have a property in the temporarily off market status may not enter the same property as new in the MLS.

### Section 1.10 Property Address

At the time of filing a listing, Participants and Subscribers must include a property address available to other Participants and Subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location.

### Section 1.11 Contingencies Applicable to Listings

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

### Section 1.12 Listing Price Specified

A full gross listing price is required which shall be stated in the listing contract and included in the information published in the MLS compilation of current listings.

### Section 1.13 Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the listing agreement(s) and on the property listing input form(s). When part of a listed property has been sold, proper notification should be given to the MLS.

If multiple units are to be listed as one in the MLS, then the listing agreement should reflect the information accordingly.

### Section 1.14 No Control of Commission Rates or Fees Charged by Participants

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

### Section 1.15 Expiration 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 Expiration of Listings

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

If notice of an extension is received prior to the expiration date of the listing, then such listing shall remain active in the MLS provided.

If notice of an extension is received within thirty (30) days after the expiration of the listing, then the current listing may be extended in the MLS.

If any extension is received by the MLS more than thirty (30) days after the expiration date of the listing, then a new listing agreement must be secured for the listing to be filed with the MLS and shall be published as a new listing.

### Section 1.17 Service Area and Mandatory-Listing Areas

Only listings of the designated property types located within the mandatory-listing area of the MLS are required to be submitted to the MLS. However, in the event that the listing of a Participant has as its listing agent or salesperson a licensee who is subject to a fee waiver under Section 6.6, then that listing shall be ineligible for submission to the service. Listings of property located outside the service area will not be accepted if submitted voluntarily by a Participant.

### Section 1.18 Listings of SUSPENDED Participants

When a Participant of the MLS is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association bylaws, MLS bylaws, MLS Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the MLS until sold, withdrawn, expired, or cancelled, and shall not be extended by the MLS beyond the expiration date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Association, MLS (or both) for failure to pay appropriate dues, fees, or charges, the MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

### Section 1.19 Listings of EXPELLED Participants

When a Participant of the MLS is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association bylaws, MLS bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled Participant shall, at the Participant's option, be retained in the MLS until sold, withdrawn, expired, or cancelled and shall not be extended by the MLS beyond the expiration date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Association, MLS (or both) for failure to pay appropriate dues, fees, or charges, the MLS is not obligated to provide MLS services, including continued inclusion of the expelled

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

### Section 1.20 Listings of Resigned Participants

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

## Article II Selling Procedures

### Section 2.1 Showings and Negotiations

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

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

### Section 2.2 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 2.3 Submission of Written Offers and Counter-Offers

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

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

### Section 2.4 Right of Cooperating Broker in Presentation of Offer

The cooperating broker or their representative has the right to participate in the presentation to the seller or lessor of any offer they secure to purchase or lease. They do not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

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.

### Section 2.5 Reporting Sales to the MLS

Status changes, including Contingent and Pending shall be reported to the MLS by the listing broker within twenty-four (24) hours of a fully executed offer.

Final closings of sales and sales prices shall be reported to the MLS by the listing broker within seventy-two (72) hours after they have occurred. If negotiations were carried on under Section 2.1 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within seventy-two (72) hours after occurrence and the listing broker shall report them to the MLS within seventy-two (72) hours after receiving notice from the cooperating broker.

The MLS 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.

### Section 2.6 Reporting Resolutions of Contingencies

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

### Section 2.7 Advertisings of Listings Filed with the MLS

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 within the MLS the cancellation of any pending sale, and the listing shall be reinstated immediately, given the expiration date of the original listing agreement has not been reached or an extension to the original listing agreement has been obtained in writing by the seller and filed with the MLS.

### Section 2.9 Disclosure of 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. All properties able to be shown must be shown to all Participants. However, office exclusive listings may only be shown within the listing firm.

## Article III Refusal to Sell

### Section 3.1 Refusal to Sell

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

## Article IV Prohibitions

### Section 4.1 Information for Participants Only

Any listing filed with the MLS shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker. A Participant with licensees who are subject to a fee waiver under Section 6.6 may not make available to those licensees' listings of other brokers in the MLS. The preceding sentence does not prohibit a licensee from accessing listing records from another MLS or from any other source lawfully available to the licensee.

### Section 4.2 For Sale Signs

Only the for sale sign of the listing broker may be placed on a property.

### Section 4.3 Sold Signs and use of term "Sold"

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker with permission of the seller authorizes the cooperating broker to post such a sign. Only Participants or Subscribers who participated in the transaction as the Listing Broker or Cooperating Broker may claim to have "sold" the property.

All signage of the listing brokerage shall be removed at the closing of the sale unless consent is given by the buyer.

### Section 4.4 Solicitation of Listing Filed with the MLS

Participants shall not solicit a listing on property filed with the MLS unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations. The prohibition in the previous sentence applies to licensees affiliated with a Participant who are subject to a fee waiver under Section 6.6.

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

No MLS Participant, Subscriber, or licensee affiliated with any Participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, Subscribers, and licensees affiliated with Participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to Participants and Subscribers. This does not prohibit Participants and Subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. The provisions of this section apply to licensees affiliated with a Participant who are subject to a fee waiver under Section 6.6.

### Section 4.6 Misuse of Public Remarks and Media

Information in the public remarks shall only relate to the description and condition of the property. No contact information is permitted in public remarks or media, including names, phone or fax numbers, email, or website addresses. No showing instructions are permitted or the occupancy of the property. No information directed toward real estate agents or brokers, including compensation or bonuses offered may be shown in public remarks.



Participants and Subscribers may not use any remarks or other media fields to convey any information that does not directly relate to the marketing of the listing.

### Section 4.7 False or Misleading Advertising and Representations; True Picture Standard of Conduct

Participants and Subscribers may not engage in false or misleading advertising, including, but not limited to, advertisements or representations regarding the Participant's or Subscriber's relationship to the MLS, about the MLS itself, or about any property listed with the MLS. MLS Participants and Subscribers shall present a true picture in their advertising and representations to the public, including the URLs and domain names they use, and Participants and Subscribers may not:

- (a) Engage in deceptive or unauthorized framing of real estate brokerage websites;
- (b) Manipulate listing content in any way that produces a deceptive or misleading result; or
- (c) Deceptively use metatags, keywords, or other devices/methods to direct, drive or divert Internet traffic, or to otherwise mislead consumers.

### Section 4.8 Services Advertised as "Free"

MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services.

## Article V Division of Commissions

### Section 5.1 Compensation Specified on Each Listing

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

In filing a property with the MLS, the Participant of the MLS is making blanket unilateral offers of compensation to the other MLS Participants and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS Participants. Specifying the 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. All offers of compensation must be expressed as either a percentage of the gross or net sales price or as a flat dollar amount.



The listing broker and their seller retain the right to determine the amount of compensation offered to other Participants (acting as buyer agents, facilitators, or in other agency or non-agency capacities defined by law) which may be the same or different.

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

The MLS shall not disclose in any way the total commission negotiated between the seller and listing broker.

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

Listing brokers must communicate to potential cooperating brokers that the gross or net commissions established in their listing contracts is subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross or net commission established in the listing contract is reduced by a court. In such instances, the fact that the gross or net 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.

### Section 5.2 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.

Participants must advise other Participants whether and how any reduction in the gross or net commission established in the listing contract, as required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating Participants.

Where Participants communicate to other Participants how any reduction in the gross or net commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating Participants, listing Participants shall disclose to cooperating Participants in writing the total reduction in the gross or net commission and the amount by which the compensation payable to the cooperating broker will be reduced within twenty-four (24) hours of receipt of notification from the lender.

### Section 5.3 Participant as Principal

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

### Section 5.4 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 5.5 Dual or Variable Rate Commission Arrangements

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

### Section 5.6 Display of Listing Broker's Offer of Compensation

Participants and subscribers who share the listing broker's offer of compensation for an active listing must display the following disclaimer. A listing broker's compensation offer is a dollar or percent of the gross or net sale price offered to a broker who participates in the MLS where the listing is filed and procures the buyer for a successful transaction. The offer is not extended to non-MLS brokers. The non-MLS broker may negotiate compensation with their client or directly with the listing broker prior to an offer being submitted.

## Article VI Service Charges

Service charges for operation of the MLS are in effect to defray the costs of the services and are subject to change from time to time by the Board of Directors. The Board of Directors shall establish a schedule of MLS fees applicable to the MLS, which may include the following service fees and charges:

### Section 6.1 Initial participation Fee

An applicant for participation in the MLS shall pay an application fee. Additional branch offices do not incur a separate fee but must be registered with the MLS office.

### Section 6.2 Recurring Charges

The Participant will be assessed a yearly fee for each salesperson and licensed or certified appraiser in the office, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant, except that this fee shall be waived for licensee's subject to a fee waiver under Section 6.6. Payment of such fees shall be made by due date. Fees shall be prorated on a monthly basis.

### Section 6.3 Responsibility for Fees

Fees shall be the exclusive obligation of that Subscriber regardless of whether such Subscriber becomes affiliated with a different Participant. This section does not preclude in any way the ability of Participants to pursue

reimbursement of MLS fees from current or past Subscribers or to establish agreements with Subscribers regarding payment or reimbursement of MLS fees.

### Section 6.4 Clerical Users

The MLS allows for clerical users, which are defined as individuals (whether licensed or unlicensed) under the direct supervision of an MLS Participant or Subscriber that perform only administrative and clerical tasks. Each Participant and Subscriber shall provide the MLS with a list of all clerical users employed by or affiliated as independent contractors with the Participant or Subscriber and shall immediately notify the MLS of any changes, additions, or deletions from the list.

All clerical users are required to fill out an application and register with the MLS office. Clerical users are eligible for MLS access for a reduced fee.

### Section 6.5 Notification of Licensees

Each Participant shall provide the MLS with a list of real estate licensees or licensed Appraisers employed by or affiliated as independent contractors with such Participant or with such Participant's firm and shall immediately notify the MLS of any changes, additions, or deletions from the list. This list shall include any licensees under any broker associate affiliated with the Participant.

### Section 6.6 Subscriber Fee Waivers

MLS provides participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser in a participating office who can demonstrate

- (a) subscription to a different MLS or CIE where the principal broker for the office also participates or
- (b) that they work exclusively with rentals.

MLS requires participants to sign a certification for nonuse of MLS services by their licensees, which includes penalties and termination of the waiver if violated.

Normally, under Section 6.2, any per-Subscriber fee is calculated based on each salesperson and licensed or certified appraiser affiliated with a participating office. The effect of fee waiver is that the number of Subscribers in a participating office for purposes of any recurring per-Subscriber fees paid by a Participant under Section 6.2 shall be reduced by the number of licensees and certified appraisers who are subject to waiver under this Section 6.6.

For purposes of this Section 6.6 and all rule provisions referring to it, "licensee" refers to non-principal brokers and salespersons and licensed and certified appraisers. Section 6.6.1 sets out the conditions for fee waiver, Section 6.6.2 the process for obtaining and maintaining waivers, Section 6.6.3 circumstances under which waiver is revoked and consequences of revocation, and Section 6.6.4 the consequences of repeated violations of these policies.

#### Section 6.6.1 Conditions for Waiver

Fee waivers are available for licensees in offices participating in MLS, provided the Participant and any fee-waived licensee(s) meet all the following requirements:

- (a) Any fee-waived licensee must be a Subscriber in another MLS or must exclusively work with rentals
- (b) During any period for which a licensee's fees are waived, the licensee shall refrain from using any of the services of this MLS included but not limited to:
  1. Using this MLS's systems, databases, etc. This does not include accessing listing information of the licensee's own broker or of other brokers through the participant's IDX site or elsewhere. It does include accessing such information on the participant's VOW (which is for consumers' personal use).
  2. Use of any data feed from this MLS (except one that includes listings only of the licensee's broker).
  3. Using this MLS's data on an IDX or VOW website identified as the fee-waived Subscriber's site or page.
  4. Using MLS's data in an automated valuation product or tool in any product or service identified as coming from the fee-waived Subscriber.
  5. Attending an MLS Tour, training, or utilizing any other product, service or benefit of the MLS.

### Section 6.6.2 Process for Obtaining and Maintaining Waiver

The Participant must at all times provide to MLS up-to-date information on all licensees, whether they are Subscribers or fee-waived licensees, in each participating office. Participant shall notify the MLS within five (5) business days of any change in status for Subscribers and any change in qualifications of fee-waiver licensees.

In order to obtain a waiver for any licensee in the Participant's office, the Participant must certify the MLS's form for listing fee-waived licensees. In order to maintain a waiver for any licensee, the Participant and licensee must continue to satisfy the requirements of Section 6.6.1 and must recertify with the frequency set by this MLS.

### Section 6.6.3 Revocation of Waiver

The fee waiver for a licensee may be revoked under various circumstances, and the consequences of the revocation vary depending on its circumstances, as provided in this section.

- (a) The Participant or fee-waived licensee may revoke the waiver at any time upon notice to this MLS. In that case, the fee-waived licensee immediately becomes a subscriber and any fees due to MLS under its normal fee schedule for the current period for the Subscriber (including pro-rated fees for any partial service period and any application fees if none have previously been paid for the Subscriber) shall immediately become due and payable.

If this MLS determines that the fee-waived licensee has used any of the services of this MLS listed in Section 6.6.1(b) during a fee-waiver period, including if a fee-waived licensee appears as a listing agent on an active or pending listing in this MLS, then MLS may terminate the fee waiver upon notice to the participant and subscriber. In this case, the consequences of subsection (a) apply, and in addition to them, MLS may assess participant a fine (as outlined in the MLS Citation Policy); non-payment of the fine will result in a suspension of MLS access for participant and all subscribers associated with participant. Six months after termination of a waiver, the participant and subscriber can re-certify the subscriber to be a fee-waived licensee.

### Section 6.6.4 Consequences of Repeated Violations

A pattern of repeated violations of Section 6.6.1(b) exists when a participant allows any combination of three or more violations of Section 6.6.1(b), whether the participant is aware of the violations and whether committed by one fee-waived licensee or more; or when a subscriber commits three or more violations of Section 6.6.1(b). In the event that a participant or subscriber exhibits a pattern of repeated violations of Section 6.6.1(b), MLS may suspend all fee waivers for the participant or subscriber (or both) for a period of up to three years. If, after such a period of suspension, a participant or subscriber again exhibits a pattern of repeated violations, MLS may permanently terminate fee waivers for the participant or subscriber (or both). In the event a participant or subscriber subject to suspension or termination of waivers moves to a new office as a participant, that office shall be ineligible for waivers during the pendency of its participant's suspension or termination. In the event a participant or subscriber subject to suspension or termination of waivers moves to a new office as a non-principal licensee, that non-principal licensee shall be ineligible for waivers during the pendency of his or her suspension or termination.

## Article VII Compliance with Rules-Authority to Impose Discipline

By becoming and remaining a Participant or Subscriber in this MLS, each Participant and Subscriber agrees to be subject to the Rules and Regulations and any other MLS governance provision. Each Participant is subject to these Rules and Regulations with regard to licensees affiliated with the Participant who are subject to fee waiver under Section 6.6. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

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

MLS participants and subscribers can receive no more than three (3) administrative sanctions resulting in a fine within a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

### Section 7.1 Compliance with Rules

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

- (a) for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, MLS access shall be suspended until service charges or fees are paid in full
- (b) for failure to comply with any other rule, the provisions set forth in Article VIII shall apply

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

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or Subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or Subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. The Participant is subject to these rules and regulations with regard to licensees affiliated with the Participant who are subject to fee waiver under Section 6.6. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or Subscribers affiliated with the Participant.

## Article VIII Enforcement of Rules or Disputes

### Section 8.1 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.

The MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, the MLS will appoint a representative to serve as the complainant.

### Section 8.2 Citations

The MLS has implemented a schedule of fines, as outlined in the MLS Citation Policy in Appendix A-6 for certain violations of the rules and regulations and directs staff to issue citations for the specified violations and implement a procedure whereby the Participant and Subscriber receiving the citation may either pay the amount specified on the citation or request a hearing.

#### Section 8.2.1

After a hearing, the Board of Directors may take disciplinary action and impose sanctions, as outlined in Article VII.

### Section 8.3 Complaints of Unethical Conduct

All other complaints of unethical conduct shall be referred by the Board of Directors of the MLS to the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws.

## Article IX Confidentiality of MLS Information

Any information provided by the MLS to the Participants shall be considered official information of the MLS. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants entitled to access 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 entitled to access.

### Section 9.1 MLS Not Responsible for Accuracy of Information

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

### Section 9.2 Participant and Subscriber Duties of Confidentiality

Any information provided by the MLS to the Participants and Subscribers shall be considered and treated as confidential by Participants and Subscribers and shall be for the exclusive use of the Participants and Subscribers for purposes described in these rules and regulations. Participants and Subscribers shall at all times maintain control over and responsibility for each copy of any MLS compilation leased to them by the MLS and shall not distribute any such copies to persons other than Participants and Subscribers. Participants and Subscribers are responsible for the security of their password and shall not give or allow use of or make available their password to any person. Participants and Subscribers may reproduce or display the information as provided in these rules.

#### Section 9.2.1 Use of Information by Clerical Users

Registered clerical users may have access to MLS information solely under the direction and supervision of the Participant or Subscriber. Clerical users are expressly prohibited from displaying or distributing MLS information to anyone other than the Participant or Subscriber under whom they are registered. Access by clerical users to the database is solely for clerical and administrative functions for the Participant or Subscriber under whom the clerical user is registered.

## Article X Ownership of MLS Compilation\* and Copyright

By the act of submitting any property listing content to the MLS, the Participant represents and warrants that they are fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS 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.

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\* The term MLS compilation, as used in Sections 10 and 11 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including but not limited to bound book, loose-leaf binder, computer database, card file, or any other format whatsoever



Each Participant who submits listing content to the MLS agrees to defend and hold the MLS 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.

### Section 10.1 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 MLS. Such notice shall be in writing and specifically identify the allegedly unauthorized content. All images, videos, and tours submitted to the MLS are considered the property of the original listing agent and shall not be copied or used in any manner without written permission of the original listing agent.

### Section 10.2 The Digital Millennium Copyright Act (DMCA)

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

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

To qualify for this safe harbor, the OSP must:

- (a) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
- (b) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- (c) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- (d) Have no actual knowledge of any complained-of infringing activity.
- (e) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
- (f) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity. Full compliance with these DMCA safe harbor criteria



will mitigate an OSP's copyright infringement liability. For more information see 17 U.S.C. §512.

### Section 10.3 Right and Title

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

### Section 10.4 Display

Each Participant shall be entitled to lease from the MVMLS 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, but not including any licensee subject to fee waiver under Section 6.6) with such Participant with one copy of such compilation. The Participant shall pay for each such copy the rental fee set by the MLS<sup>1</sup>.

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

## Article XI Use of Copyrighted MLS Compilation

### Section 11.1 Distribution

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the MLS, 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 MLS. Use of information developed by or published by an association MLS 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 or published by an association MLS where access to such information is prohibited by law.

### Section 11.2 Display

Participants and those persons affiliated as licensees with such Participants shall be permitted to display the MLS compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS compilation. "Persons affiliated as licensees" in the previous sentence does not include licensees subject to fee waiver under Section 6.6.

### Section 11.3 Reproduction

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

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<sup>1</sup> This section should not be construed to require the Participant to lease 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 MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers a reasonable<sup>7</sup> number of single copies of property listing data contained in the MLS compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participants or their affiliated licensees, be interested. “Persons affiliated as licensees” in the previous sentence does not include licensees subject to fee waiver under Section 6.6.

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

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. (The previous sentence does not apply to licensee’s subject to fee waiver under Section 6.6.) Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

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

## Article XII Use of MLS Information

### Section 12.1 Limitations on Use of MLS Information

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS Participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation

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

information about specific properties which are listed with other Participants, or which were sold by other Participants (as either listing or cooperating broker).

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

Based on information from the Martha's Vineyard Multiple Listing Service, Inc. for the period (date) through (date).

## Article XIII Changes in Rules and Regulations

Amendments to the rules and regulations of the MLS shall be by consideration and approval of the Board of Directors of the MLS, subject to final approval by the Board of Directors of the Cape Cod & Islands Association of REALTORS®.

## Article XIV Orientation

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete a remote orientation program of no more than two (2) hours devoted to the MLS Rules and Regulations and computer training related to MLS information entry and retrieval and the operation of the MLS prior to receiving access. The previous sentence applies to licensee's subject to fee waivers under Section 6.6 only if their waiver status is revoked.

## Article XV Internet Data Exchange (IDX)

### Section 15.1 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 listings.

### Section 15.2 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 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 on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.

### Section 15.3 Participation

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

#### Section 15.3.1

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 15.3.2

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.

### Section 15.3.3

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 electronic forms of display or distribution.

### Section 15.3.4

Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, or type of property (e.g., condominiums, cooperatives, single-family detached, multi-family). Selection of listings displayed through IDX must be independently made by each Participant and must disclose the criteria for which the display is limited.

### Section 15.3.5

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

### Section 15.3.6

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.

### Section 15.3.7

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.

### Section 15.3.8

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 15.3.9, a Participant's IDX display may communicate the Participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

### Section 15.3.9

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

### Section 15.3.10

Participants and Subscribers 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 Participants or Subscribers hold 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.

### Section 15.3.11

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 data fields.

### Section 15.3.12

All listings displayed, including displays of minimal information, pursuant to IDX shall identify the listing firm, and the email or phone number provided by the listing Participant 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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application.

## Section 15.4 Display

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

### Section 15.4.1

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., showing instructions and property security information, etc.) may not be displayed.

### Section 15.4.2

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

### Section 15.4.3

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

### Section 15.4.4

Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own web sites subject to their Participant's consent and control and the requirements of state law and/or regulation. The previous sentence does not apply to licensee's subject to fee waiver under Section 6.6.

### Section 15.4.5

All listings displayed pursuant to IDX shall show the MLS as the source of the information. 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 to through the device's application.

### Section 15.4.6

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. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.

### Section 15.4.7

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

### Section 15.4.8

Display of expired, temp off market, and cancelled listings is prohibited.

### Section 15.4.9

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

### Section 15.4.10

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 15.4.11

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 15.4.12

Deceptive or misleading advertising on pages displaying IDX-provided listings is prohibited.

### Section 15.5 Service Fees and Charges

Service fees and charges for participation in IDX may be updated from time to time, as determined by the Board of Directors.

## Section XVI Virtual Office Websites (VOWs)

### Section 16.1 VOW Defined

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, except one subject to a fee waiver under Section 6.6, 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.

As used in Article 16 of these rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees other than those subject to a fee waiver under Section 6.6—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.

“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.

As used in Section 16 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

### Section 16.2

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.

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).



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 16.3

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.

- (a) 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.
- (b) The Participant must obtain the name of and a valid e-mail address for each Registrant. The Participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use. The Participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
- (c) The Participant must require each Registrant to have a username 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 username and password or may allow the Registrant to establish its username and password. The Participant must also assure that any e-mail address is associated with only one username and password. The Participant must assure that each Registrant's password expires on a date certain but may provide for renewal of the password. The Participant must at all times maintain a record of the name, e-mail address, username, and current password of each Registrant. The Participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, e-mail address, username, 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.

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:

- (a) that the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant
- (b) that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use



- (c) 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
- (d) 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
- (e) that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database

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.

- a. 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 16.4

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 16.5

A Participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS. Section 16.6A Participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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. If you do not wish to have your listing or the address of your listing displayed on the internet, please check either Option A or Option B below.

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.

3. This document is in reference to the following property address: \_\_\_\_\_

\_\_\_\_\_

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

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.

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

**Section 16.7**

Subject to the paragraph below, a Participant's VOW may allow third-parties:

(a) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

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

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

### Section 16.8

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

### Section 16.9

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

### Section 16.10

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

### Section 16.11

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 16.12

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.

### Section 16.13

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 16.14

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

### Section 16.15

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

- a. expired, temp. off market and cancelled listings
- b. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- c. the seller's and occupant's name(s), phone number(s), or e-mail address(es)

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

### Section 16.16

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 16.17

A Participant shall cause to be placed on their 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 16.18

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, and the email or phone number provided by the listing participant 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 16.19

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 16.20

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 16.21

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

## Appendix A Policy

### A-1 Clear Cooperation Policy

#### Clear Cooperation Defined

The Clear Cooperation Policy has been implemented to help strengthen cooperation, uphold the value of the MLS, and provide an equal opportunity to all for access to the real estate listings being publicly marketed by the brokers and agents of Martha's Vineyard Multiple Listing Service.

The policy states the following:

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MVMLS for cooperation with other MVMLS participants. Public marketing includes but is not limited to the public marketing information defined below.

Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under this policy. This applies to listings filed under Section 1.1 and Section 1.7 of the MVMLS Rules & Regulations, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the MLS and is not currently available to other MLS Participants. This policy affects MLS mandated property types only, which includes Residential, Land, and Multi-Family. It does not relate to Rental, Commercial, or New Construction developments with multiple properties.

#### Types of Listings

This section describes the types of listings that may be taken by a Participant on an exclusive form as described in Section 1.1 of the MVMLS Rules & Regulations and which may potentially be affected by the Clear Cooperation Policy.

#### Traditional Listings Defined

A traditional listing is a listing where the seller of the property signs either an Exclusive Agency or Exclusive Right to Sell agreement and wants the listing broker to market the property to other brokers inside and outside the listing firm. The listing agreement was signed and is entered as Active in the MLS within forty-eight (48) hours of all signatures or within one (1) business day of public marketing, whichever is sooner. This would be entered into an 'Active' or 'Coming Soon-No Showings' status.

#### Delayed Listings Defined

A delayed listing is a listing where the seller of the property signs either an Exclusive Agency or Exclusive Right to Sell agreement and the listing agent and seller agree the listing will not be made available in the MLS for a period of time. During this time period, if the listing is publicly marketed under the definition contained within this document, then the listing must be made available in the MLS either as a 'Coming Soon-No Showings' or as an 'Active' listing. The property cannot be shown to anyone, including licensees of the listing firm -- and if it is, the listing must become Active (either under an 'Active' or 'Coming Soon-No Showings' status) within (1) business day of the showing. A delayed listing agreement is due to the MLS within (48) hours of all signatures of the listing or within one (1) business day of publicly marketing the property, whichever is sooner. The listing agreement may either be emailed to the MLS office or to the listing saved as a draft listing inside the MLS system.

### Office Exclusive Listings Defined

An Office Exclusive Listing is a listing where an Exclusive Agency or Exclusive Right to Sell listing agreement has been signed and the seller opts out of dissemination of the listing through the MLS for the duration of the listing agreement period. The seller must agree to the terms of an Office Exclusive and acknowledge they are foregoing the entry into the MLS and public marketing of the property.

If an Office Exclusive becomes publicly marketed, it must be made available in the MLS within one (1) business day as either an Active or Coming Soon-No Showings listing. Public marketing includes showing the property to brokers outside the listing firm and their clients. The listing may only be promoted between brokers and licensees affiliated with the listing brokerage and their clients in a one-to-one promotion.

Office Exclusive listings may only be entered into the MLS as a Comparable Sale, given the appropriate rules are followed, as outlined in the Comparable Sale Policy.

### Coming Soon Listings Defined

A Coming Soon listing is a listing where the seller of the property signs either an Exclusive Agency or Exclusive Right to Sell agreement and the seller and the listing agent agree the property is not to be Active in the MLS. A Coming Soon listing may be publicly marketed; however, it may not be shown during this time period to anyone, including licensees of the listing brokerage and if it is, it must become Active immediately. A listing may stay in the Coming Soon-No Showings listing status for up to 21 days, at which time, it will become Active.

At broker discretion, listings can be distributed to IDX sites, provided they accept 'Coming Soon' listings.

### Coming Soon-No Showings Status

The Coming Soon-No Showings status is an option for agents to use if they will be publicly marketing a property as a coming soon listing. The following are important details to note regarding the use of the Coming Soon-No Showings status:

- Showings of a listing in the Coming Soon-No Showings status is not allowed.
- The Active Listing Date is limited to twenty-one (21) days.
- You may modify the Active Listing Date at any time, as long as it does not exceed twenty-one (21) days.
- Coming Soon-No Showings listings will automatically change to Active on the Active Listing Date.
- Active Listings may not be entered back into the Coming Soon-No Showings status.
- Listings may be manually switched to the Active status prior to the Active Listing Date.
- Listings may be disseminated to IDX.
- Listings are available in email subscriptions that are viewable by clients.
- Listings may be viewed on the My Listings gadget, the Hot Sheet gadget, and will also be available in the status options on a search.
- Days on Market will begin calculating when the property switches to the Active status.

### Public Marketing Defined

Public marketing shall include, but is not limited to the following:

- Flyer displayed in windows
- Yard signs
- Digital marketing on public facing websites

- Brokerage website displays
- Digital communications marketing (email blasts)
- Multi-brokerage listing sharing networks
- Applications available to the general public
- Any promotion that includes identifiable features of a property (any distinguishable photo, town, beds/bath, etc.)
- Use of any language in public marketing that may solicit showings
- Showing property to any agent or broker
- Showing property to the general public

### Business Day Defined

Business days include Monday through Friday and exclude Saturdays, Sundays and holidays. Holidays include all recognized federal and state holidays.

### Violations of the Clear Cooperation Policy

Violations of the Clear Cooperation Policy are handled as outlined in the MLS Citation Policy. Participants and Subscribers should contact the MLS office if they have any questions about this policy, concerns about whether or not they could be in violation of this policy, or if they would like to submit a potential violation.

## A-2 Comparable Sale Policy

### Claiming Comparable/Statistical Sales

#### Claiming Buyer Agent Credit:

Any participant or subscriber can contact staff to claim themselves as the 'buyer agent', with appropriate documentation for any listing that is in the Comparable status. They must provide the pending date and any concessions in the sale.

#### Claiming Listing Agent Credit:

Any participant or subscriber can claim listing agent credit, with appropriate documentation, for a Comparable sale provided the listing agent provided they provide information to fill out all required field information for a listing for the appropriate property type.

### Comparable Sale Types Defined

Comparable sales of the following **types** may be entered into the MLS system.

#### Office Exclusive Listings\*

May be entered by request to MLS staff in the case where a member represented a buyer in the sale of a property where the seller opts out of dissemination of the listing through the MLS for the duration of the listing agreement period.

#### Listings Sold Prior to Public Marketing\*

May be entered by request to MLS staff, given the intention was to market the property to other brokers inside and outside the listing firm, but a fully executed (accepted) offer has been received prior to publicly marketing the property.

#### Buyer Agent Represented Property Not in MVMLS

May be entered by request to MLS staff. Listings that were For Sale By Owner (FSBO), listed by an agent in an 'other' MLS, or where there was no exclusive seller agreement signed but whereas a member of MVMLS represented the buyer

in the transaction. All information provided by the buyer representative and entered into MVMLS should be confirmed by the listing agent to ensure all information entered is accurate to the best of their knowledge.

*In addition to the above comparable sale types that will be accepted, the following additional rules shall apply:*

- Comparable sales of the above types may be listed in the MLS within (1) calendar year of the closing.
- Agents that have an expired property in the MLS may have MVMLS staff update the listing to Pending or Closed within (1) year of expiration, given they can provide a copy of the signed offer or P&S and the property has not been marketed by any other agent. After (1) year these properties may be entered as a comparable listing.
  - *If a property expires due to the incorrect use of statuses, the appropriate steps will be taken as outlined in the MLS Citation Policy.*
- No property shall be entered if a MVMLS participant or subscriber was not on one of the two sides, listing agent or buyer representative.
- Only listings within the mandatory listing area shall be accepted into MVMLS as a comparable sale.
- Only listings of the following property types may be entered as a comparable sale:
  - Residential
  - Multi-family
  - Land
  - Commercial
- Comparable sales shall include a minimum of (1) exterior front-facing photograph for the appropriate property type, as outlined in the MVMLS photo policy.
- The listing agreement shall be attached to all comparable sales as the required listing agreement.
- All comparable sales are required to have a list date.
- All comparable sales are required to have an expiration date, which should be the original expiration date agreed upon with the seller(s). FSBO's or those without a seller agreement should use the closing date.

\* Comparable sale types 1 and 2 as described above, shall be allowed in the MLS; however, should the MVMLS staff find that the MLS Rules and Regulations have not been followed, the appropriate steps will be taken as outlined in the MLS Citation Policy.

### A-3 Photo Policy

Maximum # of Photos per listing - 100

Recommended size for photos: 1024 x 768

**All listings must have at least one photo prior to becoming active in MVMLS.** The first photo entered shall be the Primary Listing Photo, which can be updated upon the additional photo entry.



Properties will also be required to have one (1) exterior, front-facing photo, which does not need to be the primary. This requirement was added so properties can be easily identified for showings. \*

**\*Under Construction/To Be Built:** Photo(s) must be clearly marked as such on both the proposed photo/sketch submitted and in the remarks of the listing. A detailed sketch or rendering is acceptable and should clearly state that it is proposed. Photo(s) taken from the actual land, or a proposed floor plan marked as such are also acceptable.

**Land Listings:** A photo or sketch of the property is acceptable.

### A-3.1 Request for Photo Removal

Agents may mark their photographs private if they do not wish to have them sent out to IDX, publisher, and portal sites. These photos will remain visible to members of MVMLS, and the primary photo may not be hidden. Agents may not delete photos that were used to market the property in the MLS.

In the case where a client requests the removal of photographs from the internet, on a closed property listed in the MLS, staff will hide all photographs besides the primary photo. Staff will not delete any photographs from the MLS system.

### A-3.2 Use of Photographs

Photographs of another Participant or Subscriber shall never be used without prior written permission.

### A-3.3 Enhanced Photographs

Images may not be enhanced to present less than a true picture of the listed property. Examples of prohibited enhancements, include but are not limited to, adding, or removing permanent or semi-permanent features (i.e., power lines, fire hydrants, landscaping elements), altering the colors or features of the property or its surrounding landscape.

### A-3.4 Branded Photographs

Photographs may not contain any branded information related to the listing firm or agent. This includes, but is not limited to company signs, phone numbers, email addresses, or websites. In addition, photographs may not contain people, logos, or offensive material of any nature.

## A-4 Office Acquisition Policy

In the case where a company or office is acquired by another company or office, statistical history in MVMLS will not be transferred to the new company. Statistical history includes but may not be limited to all previously closed sales. Staff will reach out to offices to confirm the transfer of current listings.

If a current company or office has a name change, whereas the license number of the brokerage remains, or a broker who is a sole proprietor incorporates and receives a new license number, the statistical office history in MVMLS may be updated to reflect the new name or a new office may be created; therefore, any statistics forthcoming shall be reflected separately.

## A-5 Broadcast & Announcement Policy

Inclusion of information in the MLS Broadcasts and Announcements is at the sole discretion of the MVMLS | CCIAOR CEO/or his designee. The primary objective of this page is to provide users fast access to critical information regarding MLS policy, CCIAOR programs, MLS tours, and information related to member benefits. Due to the large volume of

requests, no third-party messages without CCIAOR involvement regarding products, services, events, or fundraisers may be included.

### A-6 MLS Citation Policy

The purpose of this citation policy is to ensure the integrity of the MLS including the currency and accuracy of its information. Fines will be issued and processed in accordance with this Citation Policy. The citable offenses and fines are subject to change upon approval of the MVMLS Board of Directors. The Citation Policy is in addition to and does not replace the provisions of Section 9 of the MVMLS Rules and Regulations.

#### Issuance of Citations

I. Violation notices will be sent to Respondents. A copy of the notice shall also be sent to the Participant of Respondents' office. If the respondent changes firms before or after the violation is filed but before the notice is issued, both the former and current Participant will receive a copy of the notice.

Reporting of violations is confidential.

II. A violation must be corrected within two (2) business days of notice of violations sent to the Participant and/or Subscriber. Receipt of notice is presumed to be the sooner of three (3) business days after mailing or one (1) business day after email transmission. Failure to correct a noted violation within the two (2) day time period allotted will result in a new violation for the uncorrected violation with the associated fine for that level of violation. Failure to correct a violation within the two (2) day correction period may also subject a non-conforming listing to removal by the MLS from active display. New violations may be issued for any remaining uncorrected violations until the violations are corrected or the maximum fine is reached as set forth below.

Level I and Level II violations and fines will be waived if notice of the violation occurs more than 180 days after the listing has been sold, withdrawn, or expired.

III. Fines are due within twenty (20) business days of receipt of a violation notice. Receipt of notice is presumed to be the sooner of three (3) business days after mailing or one (1) business day after email transmission.

IV. Failure to pay assessed fines may result in suspension of MLS privileges as detailed in Article VII of these rules.

V. Violations are tracked on a calendar year basis. On the first day of each calendar year the violation count for each MLS member will be reset to zero (0). A violator shall be entitled to receive two (2) warning letters per calendar year. Upon the third (3<sup>rd</sup>) violation in a calendar year the violator will receive a fine.

A listing containing multiple violations is considered a singular violation event. A listing containing more than one (1) violation on the same day will be treated as a single violation event, whether reported separately or together.

VI. Fine amounts are determined by the total number of violations accumulated by each MLS member during a calendar year.

VII. If a violator believes that a violation notice and fine was issued in error, the violator and their Participant or authorized representative may request a hearing within thirty (30) days of the violation notice of fine being sent. Prior to requesting a hearing, the violation must be corrected.

VIII. The MLS Board of Directors reserves the right, at their discretion, to charge a Participant or Subscriber with rules violations by virtue of the hearing process, including the possibility of additional fees or fines, suspension, or expulsion, rather than utilizing the citation process. Thus, the below fines may not be all inclusive.

IX. Any Participant or Subscriber who accumulates in excess of three (3) violations resulting in a fine within one calendar year, unless otherwise specified, will be required to attend a hearing for their actions and potential violations of MLS rules. Responsible Participants are required to attend all hearings, which shall be held virtually.

X. The violation fine schedule is set forth in the following three (3) levels:

### A-6.1 Level One

First Violation: Warning letter

Second Violation: \$50 fine assessed

Third Violation: \$100 fine assessed

Fourth and Subsequent Violations: \$300 fine assessed

Violations must be corrected within two (2) business days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 permitted by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

### Level One Offenses:

- Failure to input complete and accurate information – Article 1
- Failure to properly specify listing type or class – Section 1.1
- Failure to provide complete listing information – Section 1.4
- Failure to update/change listing information – Section 1.8
- Failure to timely report listing status changes and sales – Sections 1.8 and 2.5
- Unauthorized removal of listing – Section 1.9
- Unauthorized advertisement of listing of another agent – Section 2.7
- Failure to timely report cancellation of pending sale – Section 2.8
- Unauthorized use of term “sold” – Section 4.3
- Misuse of public remarks; failure to limit public remarks to marketing, description, and condition of the property – Section 4.6
- Failure to offer unconditional compensation – Section 5.1
- Failure to disclose a potential short sale or foreclosure – Section 5.2
- Failure of Participant or Subscriber to notify the MLS of termination, transfer, or addition of any clerical users affiliated with Participant or Subscriber – Section 6.4
- Failure of Participant to notify the MLS of termination, transfer, or addition of any licensees under Participant's license – Section 6.5
- Wrongful use of photographs/use of photographs on a listing without proper authorization – Article 11
- Unauthorized use of statistical reports, sold data or comparable reports in advertising – Section 13.1

- Failure to provide adequate informational notice on print or non-print forms of advertising or other forms of public representation – Section 13.1
- Non-completion of Required MLS Orientation within set time allowed – Article 15
- Failure to abide by the photo policy-Appendix A-3

### A-6.2 Level Two

First Violation: Warning letter

Second Violation: \$100 fine assessed

Third Violation: \$250 fine assessed

Fourth and Subsequent Violations: \$500 fine assessed

Violations must be corrected within two (2) business days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 permitted by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

#### Level Two Offenses:

- Failure to input a required listing – Sections 1.1 and 1.3
- Failure to provide signed seller exemption; failure to submit compliant signed seller exemption – Sections 1.1, 1.7
- Failure to provide appropriate written documentation of listing – Section 1.4
- Entry of a listing as new after cancelled/withdrawn without a new or amended listing contract – Section 1.9
- Failure to remove expired listing; failure to obtain Seller's written authorization before extension or renewal – Section 1.14
- False representations; failure to abide by true picture standard of conduct – 4.7
- Failure to disclose interest by a Participant or Subscriber – Sections 5.3 and 5.4
- Failure to disclose dual variable commission – Section 5.5
- Failure to correct incomplete or inaccurate information after notification by MLS – Article 9

### A-6.3 Level Three

First Violation: \$1,000 fine assessed

Second and Subsequent Violations: \$2,500 fine assessed

Violations must be corrected within two (2) business days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 permitted by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

### Level Three Offenses:

- Failure to obtain seller's authority to list in MLS – Article 1
- Unauthorized use of MLS Information – Article 10
- Unauthorized sharing of MLS information and pass codes; use of MLS by unauthorized party – Section 10.2
- Unauthorized clerical user access and use of MLS information – Section 10.2.1
- Misuse of reproduction of MLS information – Section 12
- Sharing the MLS compilation or any portion thereof with any third party vendor not authorized by the MLS – Articles 13, 16 and 17
- Misuse of MLS data on public website; violation of IDX rules – Article 16
- Misuse of MLS data on public website; violation of VOW rules – Article 17

## Appendix B Key Definitions

### B-1 MLS Listing Content

**Clerical Users:** Clerical Users (or Administrative Users) are affiliated licensed or unlicensed administrative and clerical staff or personal assistants who are under the direct supervision of a MVMLS Participant or the Participant's licensed designee. Administrative users do not have access to list and sell in MVMLS and if unlicensed, are not required to hold REALTOR® membership.

**Co-Listing Agent:** A broker or agent within the same office that shares responsibility in representing the seller in the sale of real or personal property.

**Comparative Market Analysis (CMA):** An in-depth analysis of properties with similar criteria as a subject property. A CMA is usually used to assist a seller in determining a listing price but may also be used to assist a buyer in determining an appropriate offer price.

**Concessions:** The following should be considered a 'Concession' and must be noted when closing a sale in the 'Concessions' field:

- Closing costs of the buyer that are paid by Seller
- Cash or cash allowances given by Seller to the buyer and not escrowed
- Additions or alterations not considered deferred maintenance
- Down payment assistance that is given or credited by Seller to the purchaser

Personal property is not considered a concession.

**Co-Selling Agent:** A buyer's representative that shared responsibility in representing the buyer in the purchase of real or personal property.

**Cumulative Days on Market (CDOM):** CDOM is a collection of historical listing data that has occurred for an individual property not having been off the market for a total of ninety (90) days. If a property has been off the market for more than ninety (90) days and is put back on as new, the CDOM will begin at zero (0).

**Days on Market (DOM)\*:** The total days for which an individual property has been marketed in the MLS. It reflects the current listing information. The DOM in MVMLS starts at zero (0) if the date it is submitted matches the entered listing date. Various history events will affect the DOM, such as a property being marked as Pending and then falling through.

**Directions to Property:** Directions to find a location of a property, not defined by use of GPS or MapQuest, etc.

**Dual or Variable Rate Commission:** One in which the seller agrees to pay a specified commission if the property is sold by the listing broker without assistance and a different commission if the sale results through the efforts of a cooperating broker; or one in which the seller agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale results through the efforts of a seller.

**Duplicate Sold Listing\*:** A listing that has been closed out within multiple property types.

*\*In cases where a property has been entered into multiple property-types, MLS staff will need to be notified for the removal of the type(s) for which the property did not sell while the appropriate property type shall be closed.*

**Exclusive Agency:** Authorizes the listing broker, as the exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.

**Exclusive Right-to-Sell Listing Agreement:** The conventional form of listing submitted to the MLS in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

**Listing Agent:** A broker or agent responsible for representing the seller of real or personal property that is to be listed in the MLS.

**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.

**MLS Tour:** A scheduled date and time for which agents meet to view a certain group of properties.

**Net Sales Price:** The net sales price for determining compensation should be the gross sales price minus any concessions.

**Open House:** A scheduled date and time for which all visitors are allowed into a property.

**Participant:** A Participant is the individual who hold an active real estate license in the Commonwealth of Massachusetts and have been designated the 'Broker in Charge' of their office (i.e. sole proprietors, partners, corporate officers, or branch office managers acting on behalf of the firm principal(s)). REALTOR® Member principal of a firm, partnership, corporation, or branch office manager designated by such as the responsible party for the MLS and shall have all rights, benefits, and privileges of the MVMLS, and shall accept all obligations to the MVMLS for compliance with the Bylaws and Rules and Regulations by all persons affiliated with the Participant.

**Personal Property:** Is generally considered as property that is movable.

**Property Sub-type\*:** An additional subset in describing a type of building or piece of real or personal property.

*\* Agents may not market a property within multiple property sub-types.*

**Property Type:** The type of building or piece of real or personal property.

*\* Agents may enter a listed property into multiple property types should it not be misleading or deceptive in any way.*

**Real Property:** Is fixed property, usually land and buildings.

**Sales Price:** The sales price marked in the MLS should be the gross sales price, which is inclusive of any concessions or buyer gifts, such as crediting buyer agent commission.

**Selling Agent:** Also known as a buyer's representative, the selling agent represents the buyer in the purchase of real or personal property.

**Subscriber:** Subscribers (or users) of the MVMLS include non-principal real estate brokers, sales associates, and licensed real estate appraisers affiliated with MVMLS Participants.

**Tour of Homes (Broker Open House):** A scheduled date and time for which all agents are allowed into a property.

**User ID:** A unique identifier for all Participants, Subscribers, and those affiliated that will allow users to log into the Member Dashboard and other databases used for updating membership, paying bills, and registering for classes. MVMLS members User ID's will start with the letter U. Team ID's will start with the letter T but are only used for listing purposes in the MLS listing software.

**Mandatory Listing Area:** The mandatory-listing area of the Cape Cod & Islands Multiple Listing Service, Inc. is the counties of Barnstable, Dukes, and Nantucket, and the town of Wareham in the state of Massachusetts.

**Multiple Listing Service (MLS):** A means by which authorized Participants make blanket unilateral offers of compensation to other Participants. A service for the orderly correlation, accumulation, and dissemination of listing information so Participants may better serve their clients, customers, and the public. And a means of enhancing cooperation among Participants.

### B-2 MLS Status Definitions

**Coming Soon-No Showings:** Allows agents who will be publicly marketing a property to list the property in the MLS while it is being prepared for showing or sale. Properties must be entered as Coming Soon-No Showings or Active within forty-eight (48) hours or one (1) business day of public marketing, whichever is sooner. Properties may only remain in this status for a period of twenty-one (21) days. Listings in this status will automatically switch to Active once it has reached its Active Listing Date.

**Active:** Property is in the MLS, being marketed and usually shown\*. All exclusive listing agreements taken in the mandatory listing area must be submitted to the MLS within 48 hours of all necessary signatures, even if the marketing in the MLS is delayed or declined altogether.

*\*Properties may be considered Active even if they are not being shown. Listing brokers shall not misrepresent the availability of access to show or inspect a listed property. Remarks regarding the showing of a property must be disclosed in the Agent Remarks, including the availability to show. However, the availability to show a property is presumed unless otherwise disclosed.*

**Active w/Contingency:** Property has a fully executed offer, but the member and client will continue to market and show the property due to a contingency which has not been met. Status change in the MLS should be made within 24 hours of the fully executed offer.

**Pending:** Property has a fully executed offer and is not being shown (even if there are outstanding contingencies). Status change in the MLS should be made within 24 hours of a fully executed offer or P&S, whichever comes first.

**Temp. Off Market:** Property is being taken off the market temporarily, but a valid listing agreement still exists. Status Change in the MLS should be made within twenty-four (24) hours of signed withdrawal

**Cancelled\*:** Property is being removed from the market due to the listing agreement ending prior to the original expiration date. Status Change in the MLS should be made within twenty-four (24) hours of signed authorization.

*\*This status will only be accessible by the Participant or their authorized representative and will require appropriate documentation authorizing the mutual agreement to terminate.*

**Expired\*:** Property has reached its contract expiration. Listings will automatically Expire on their listed Expiration Date.



*\*Agents will have access to their Expired listings for a period of seven (7) days following its expiration. After the seven (7) day period they should contact the MLS office for assistance.*

**Closed:** Property has had its closing. Status change in MLS should be made within seventy-two (72) hours of property closing.

### B-3 MLS Technical Terms

**Application Program Interface (API):** Describes a data transfer method that eliminates the need to copy listings between servers. API technology creates efficiencies in the collection and use of MLS data by Participants, vendors, and MLSs. APIs allow for faster updates/results, increased security, and ease of use in displaying property information.

**Automated Valuation Model (AVM):** A service that can provide real estate property valuations using mathematical modeling combined with a database. Most AVMs calculate a property's value at a specific point in time by analyzing values of comparable properties.

**Affiliated VOW Partner (AVP):** An entity or person designated by the Participant to operate a VOW on their behalf, which is subject to the Participant's supervision, accountability, and compliance with the VOW policy.

**Broker Distribution\*:** Term used for the supply of MLS listing data to a specific website or websites for display of authorized information. MLS publishers use the authorized listing information to market real estate on their website(s). MVMLS publishers include Boston.com, Realtor.com, Homes.com, and ListHub. Properties may be excluded from syndication on a listing-by-listing basis at the seller's request. Participants of MVMLS have the right to opt-out of any syndication publisher at their own discretion.

*\*The goal of the MVMLS in regard to listing distribution is to put the broker in charge and give them the power, the tools, and the knowledge to make responsible choices as to where and how they send and share their listings online.*

MVMLS accomplishes this by:

1. Maintaining a broker distribution tool within the MVMLS that allows brokers - at the firm level and at the individual listing level - to choose where their data is shared
2. Training brokers on how to manage distribution, which includes distribution tools and how to spot the source of a listing online
3. Provide member assistance to help brokers and agents navigate issues with publisher sites and the display of data online

**Broker Reciprocity:** Terminology used when Participants share their listings online with other Participants.

**Internet Data Exchange (IDX):** Gives MLS Participants the ability to authorize the limited electronic display of their listings by other Participants.

**Real Estate Standards Organization (RESO):** Actively develops, adopts, and implements open and accepted data standards and processes across all real estate transactions. Its goal is to produce a common language spoken by systems that handle real estate information. The Data Dictionary was created to ensure that each system "speaks" the same language.

**Single Sign-On (SSO):** Refers to the technology for the user authentication process that allows access to multiple applications with one set of user credentials.

**The Digital Millennium Copyright Act (DMCA)\*:** 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.

*\*To qualify for this safe harbor, the OSP must:*

- 1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, Participant, Subscriber, or other individual or entity.*
- 2. Develop and post a DMCA-compliant website policy that addresses repeat offenders.*
- 3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.*
- 4. Have no actual knowledge of any complained-of infringing activity.*
- 5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.*
- 6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.*

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

**Virtual Office Website (VOW):** A Participant’s 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 they have established a broker-consumer relationship.