



## **BIG SKY COUNTRY MULTIPLE LISTING SERVICE RULES & REGULATIONS HANDBOOK**

### **PREAMBLE**

The Big Sky Country Multiple Listing Service (BSCMLS) is a wholly owned subsidiary of the Gallatin Association of REALTORS® (GAR), a Montana nonprofit corporation.

REALTORS® in good standing shall be eligible to participate in the BSCMLS provided that the Broker in Charge (BIC) of the office or firm shall agree in writing to conform to these Rules and Regulations, including the payment of MLS Fees, fines and assessments.

Adherence of the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® shall be a privilege and obligation of each member of the BSCMLS.

### **PREFACE**

These rules and regulations are modeled after the National Association of REALTORS® (NAR) Handbook on Multiple Listing Policy, which is intended to guide local REALTOR® associations in the operation of multiple listing services consistent with the policies established by the National Association's Board of Directors.

MLSs must conform their governing documents to the mandatory MLS policies established by the National Association's Board of Directors to ensure continued status as member boards and to ensure coverage under the master professional liability insurance program. Mandatory provisions from NAR adopted by the BSCMLS are denoted in these rules and regulations with the following symbol: **M**

Multiple listing is an evolving concept. For this reason, new procedures, needs, operational facilities, and organizational arrangements must evolve to respond to its role and function. It is not the purpose of NAR's Handbook to arrest this evolution, rather, it is to assure that it proceeds in a manner which satisfies the requirements of the law, the needs of participating REALTORS®, and the interests of the buying and selling public.

These rules and regulations are somewhat residential in focus because most multiple listing services are residentially-oriented. However, policy information related to the operation of all types of multiple listing services and commercial information exchanges is included. Specific governing document provisions related to the establishment and operation of commercial/industrial multiples and exchanges can be found in the Handbook on Multiple Listing Policy — Commercial/Industrial Supplement, available on-line at REALTORS.org

### **PURPOSE**

A Multiple Listing Service (MLS) is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating Broker's performance as procuring cause of sale (or lease). *(Amended 11/04)* **M**

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**SECTION 1 – MEMBERSHIP**

**1.1 – Participation and Compensation**

Under no circumstance is any individual or firm, regardless of membership status, entitled to membership with the BSCMLS or participation unless they hold a current, valid real estate Broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by the BSCMLS is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by the BSCMLS where access to such information is prohibited by law. *(Amended 11/08)*

Entitlement to compensation is determined by the cooperating Broker's performance as procuring cause of the sale (or lease). *(Revised 11/94)*

While offers of compensation made by listing Brokers to cooperating Brokers through the MLS are unconditional,\* a listing Broker's obligation to compensate a cooperating Broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing Broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing Broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through the 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.

\*Compensation is unconditional. However, Brokers reserve the right to reduce compensation offers to cooperating Brokers in the event that the commission established in a listing contract is reduced by court action or by actions of a lender. *(Adopted 11/98)*

**1.2 – Participant / Broker in Charge (BIC)**

The Broker in Charge (BIC) is specified as the person in the firm who is authorized to offer cooperation and compensation to other firms and therefore identified also as the Participant in the MLS. All other licensees in the firm are considered Subscribers and have use of the MLS through their association with the Participant but are not themselves Participants in the MLS. Unlicensed Assistants are referred to as Office Staff and have use of the MLS through their association with the Participant but are not themselves Participants in the MLS. *(Amended 8/17)*

**1.3 – Subscriber**

Any associate with an active real estate license, or certified or licensed appraiser who accesses the MLS and works directly under the supervision of an MLS Participant.

**1.4 – Office Staff / Unlicensed Assistants**

MLS Subscribers and Participants who employ Office Staff must submit an Office Staff Application to the office of the BSCMLS prior to the staff member performing any tasks that involve access to the MLS. Subscribers must obtain the Participants signature on the application, which serves as written authorization by the Participant to allow the staff member to access the MLS to conduct business on behalf of the "employer".

Office Staff & Limited Function Referral agents (LFRO) are prohibited from engaging in any real estate activities which require an active real estate license. This is defined by the NAR By-laws as listing, selling, leasing, renting, managing, counseling, or appraising real property.

An MLS fee determined annually by the BSCMLS Board of Directors and billed to the Broker in Charge on a quarterly basis, will be assessed to each Office Staff member. Based upon when the application is received during the quarter, a pro-rated fee will accompany the application and must be paid in advance before the Office Staff member will receive login credentials. The recurring fees will appear on all future quarterly MLS invoices mailed to the Participant, due in full on or before the due date listed on the invoice. *(Amended 9/17)*

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Each Office Staff member will be issued their own login credentials to access the MLS. Upon login, the staff member will be provided access to usage of the "Team" feature. This feature allows the Office Staff member to access ONLY the MLS accounts of the employers identified on the application.

Participants will be held accountable for the actions of the staff member, including all Rules and Regulations outlined in the MLS Rules and Regulations handbook. Staff Members of the firm accessing the MLS are held to the same standards as all Subscribers in the firm. *(Amended 8/17)*

### 1.4.1 – Authorized Conduct of Office Staff

Upon approval by the Big Sky Country MLS, Office Staff may perform the following actions on behalf of the employer(s) listed on the Office Staff Application:

- a) Log in to the MLS with the username and password issued to them by the BSCMLS.
- b) Access the employer's account using the "Team" feature.
- c) Prepare descriptive materials on listed properties using MLS information (e.g., ads, packets, or copies of information from detailed MLS printouts).
- d) Install electronic lockboxes on properties ONLY if the employer has released the shackle for them. (Sharing of key cards is a violation of **Section 9.8.4**)
- e) Hold properties open for MLS tours ONLY after their employer has escorted them inside. The employer must also lock the door after the tour is over.
- f) Access MLS to run searches for the purpose of the employer to do market analysis.
- g) Assemble or calculate statistics relating to sales performances using information in or derived from the MLS compilations/database. (Public distribution of "Agent Only" and "All Fields Detail" reports are prohibited).
- h) Input listings into the MLS.
- i) Maintain listings in the MLS.
- j) Cancel or Terminate listings on behalf of the Broker in Charge, provided the staff person has been authorized to access the Broker in Charge's MLS account through the "Team" feature.

### 1.4.2 – Unauthorized Conduct of Office Staff

Under no circumstance may the staff member perform any of the actions below on behalf of any of the employers identified on the application:

- a) Log in to the MLS using the employers username and password. (Password sharing is a violation of **Section 9.8.4**)
- b) Have possession of a clients' house key(s) for any length of time.
- c) Access MLS to run amortization schedules, buyer qualifications, or other "service" programs for buyers, sellers, or the general public.
- d) Show a listing to a potential buyer.
- e) Hold an Open House for the public.

### 1.5 – Service Fees & Charges

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

**Initial Participation Fee:** A Subscriber application for participation in the service shall pay an application fee established by the BSCMLS Board of Directors on an annual basis, with such fee to accompany the application. There is no application fee for Office Staff participation in the service. *(Amended 9/17)*

**NOTE:** The initial participation fee shall approximate the cost of bringing the service to the Participant.

**Recurring Participation Fee:** The quarterly participation fee of each Participant shall be an amount determined on an annual basis by the BSCMLS Board of Directors, times each salesperson, licensed or certified appraiser, or Office Staff member who has access to and use of the service, 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. Fees shall be prorated on a monthly basis. *(Amended 2/19)*

The BSCMLS provides Participants the option of a no-cost waiver of MLS fees, dues, and charges (see **Section 1.9**) for any

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licensee or licensed or certified appraiser who can demonstrate they currently subscribe to a different MLS where the principal broker participates. However, the BSCMLS requires broker Participants to sign a certification for non-use of its MLS services by their licensees, which can include penalties and termination of the waiver if violated. *(Amended 2/19)* **M**

**NOTE 1:** A multiple listing service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by decreased or increased frequency of such payments.

**NOTE 2:** Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as Subscribers may, at their discretion, charge recurring fees. *(Amended 11/17)*

**NOTE 3:** Additional fees, of an amount determined annually by the BSCMLS Board of Directors, will be assessed for the following:

- Agent transfer between offices
- Agent MLS membership reactivation

### 1.5.1 – Payment of Fees

All fees are due and payable by the due date and are calculated according to the BSCMLS records at the time of billing.

### 1.5.2 – Failure to pay quarterly MLS fees by the due date

For failure to pay fees by 11:59 p.m. on the due date, the Participant will be charged a late fee of an amount determined on an annual basis by the BSCMLS Board of Directors.

**NOTE:** current late fee for failure to pay all MLS fees by the due date is one-third of the total invoice amount.

If the Participant fails to pay fees by 11:59 p.m. 30 days from the due date (60 days from the initial invoice date), MLS and lockbox services to the Participant and all Subscribers under the Participant shall be suspended, and the Participant will be charged a reactivation fee of an amount determined on an annual basis by the BSCMLS Board of Directors.

**NOTE:** current reactivation fees for failure to pay all MLS fees by the final due date is two-thirds of the original invoice amount

Reinstatement of services would require payment on all accounts (including all late charges and reactivation fees) for the month(s) during which service was suspended. *(Amended 8/17)*

If the Participant fails to pay all subscription fees, late fees and reactivation fees by 11:59 p.m. 60 days from the original due date (90 days from the initial invoice date), membership of all nonpaying members shall automatically be terminated. The Participant will also be sent notice that all Active and Pending listings in the MLS that are associated with the office will be Cancelled/Terminated by BSCMLS staff.

**NOTE:** For any listing(s) that are co-listed with a cooperating office, in which the cooperating office is still in good standing, the terminated Participants office and agent(s) will be removed from the listing by BSCMLS staff. The cooperating office in good standing will be notified that the terminated co-listed office is no longer part of that listing(s).

### 1.6 – Supra Lockbox System

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures:

#### 1. Types of keys

Any physical or electronic key, programmer, or other device (hereinafter referred to as key) by which a lockbox can be opened, must be non-duplicative. Being non-duplicative means that it cannot be readily copied in the manner that other types of keys ordinarily are. *(Amended 5/17)*

A mobile device (such as, a smart phone, tablet, fob, etc.) can transmit a key to access a lockbox using standard protocols, including, Bluetooth, ZigBee, infrared technology, and others. The applications and software used by mobile devices must contain security controls to allow only authorized users access to the lockbox. *(Adopted 5/17)*

**2. Security protocols**

Keys must be obtained directly from Supra. Prior to utilizing previously used keys and boxes, the BSCMLS will determine whether the key's pattern, code, or configuration is already in use. *(Amended 5/17)*

Electronic lockboxes and electronic keys running on mobile devices must incorporate security protocols to prevent the following types of cyber-attacks:

- where an unauthorized user can override or escalate their security credentials
- where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access
- forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user
- digitally signed updates to electronic keys running on mobile devices or electronic lockbox firmware plus a secured update process to prevent unauthorized software from being introduced into the lockbox system

**3. Availability of lockbox system and keys**

The Supra lockbox system is designated as an activity of the BSCMLS.

Every MLS participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS participant and who is legally eligible for MLS access is eligible to hold a key subject to their execution of a lease agreement with Supra. *(Amended 5/17)*

Participants and Subscribers are limited to one key per individual. Sharing of Supra keys is strictly prohibited.

Key lease agreements executed by non-principal brokers, sales licensees, and licensed, certified appraisers must also be cosigned by the Broker in Charge. Lease agreements require acknowledgement of responsibilities of the parties and incorporate by reference any applicable rules or regulations or other governing provisions of the BSCMLS that relate to the operation of the Supra system. *(Amended 5/17)*

Inspector Affiliate members of the Gallatin Association of REALTORS® are authorized to lease a Supra key and will be held to the same rules and service fees as all other key holders.

Office Staff members are not permitted to lease a Supra key. *(Adopted 08/18)*

No one is required to lease a key from the BSCMLS except on a voluntary basis. *(Adopted 5/17)*

The initial cost for a Supra key is solely determined by Supra. The BSCMLS has no involvement in the costs associated in obtaining Supra keys.

Per NAR policy, the BSCMLS may refuse to sell or lease lockbox keys, terminate existing key lease agreements, or refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: *(Amended 5/17)*

- a) The BSCMLS determines that the conviction(s) relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts; and *(Amended 5/17)*
- b) The BSCMLS gives the individual an opportunity to provide, and the BSCMLS must consider, mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:
  - i. the individual's age at the time of the conviction(s)
  - ii. nature and seriousness of the crime
  - iii. extent and nature of past criminal activity
  - iv. time elapsed since criminal activity was engaged in
  - v. rehabilitative efforts undertaken by the applicant since the conviction(s)
  - vi. facts and circumstances surrounding the conviction(s) and
  - vii. evidence of current fitness to practice real estate *(Amended 5/17)*



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The BSCMLS will evaluate individuals uniformly and avoid making exceptions for one individual while denying an exception to another individual with a similar criminal history. (Amended 5/17)

The BSCMLS may suspend the right of lockbox key holders to use lockbox keys following their arrest and prior to a final determination on any such charge if, in the determination of the BSCMLS, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk. (Amended 5/17)

### 4. **Audit requirement**

The BSCMLS will maintain current records as to all keys issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. There will be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or by receipt of a statement signed by the key holder and the Broker in Charge, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the key holder's firm, attesting that the key is currently in possession of the key holder. (Amended 5/17)

### 5. **Seller authority required**

Lockboxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or any other written document. Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property. (Amended 5/17)

**NOTE:** Non-required listings, or properties on lot sizes larger than 40 acres, or properties located outside the BSCMLS service area are exempt from Section 9.8.3, item # 3 – Use and Placement of Unapproved Lockboxes. Refer to **Sections 3.2 and 3.3** for Required vs. Non-Required properties

### 6. **Reporting missing or lost keys**

The BSCMLS charges key holders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable keys to Supra or the BSCMLS. Upon receipt of notice, Supra and/or the BSCMLS will take any steps deemed necessary to re-secure the system and will immediately deactivate the key. The key holder will need to purchase a new key through the lockbox vendor. (Amended 5/17)

### 7. **Rules and procedures governing lockbox systems**

The BSCMLS has adopted written, reasonable, and appropriate rules and procedures for the administration of lockbox systems, which include appropriate fines up to \$15,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the BSCMLS or Supra and set forth in the rules and procedures. All key holders, whether or not they are association Affiliate members or MLS Participants or subscribers, agree as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lockbox system. (Amended 5/17)

Key lease agreements may contain a liquidated damages provision to offset some or all of the costs in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the key holder. (Amended 11/97)

### 8. **Requiring “approved” lockbox systems**

The BSCMLS requires placement of an “approved” lockbox on listed properties for all devices giving access to real estate professionals or service providers, which should also be authorized by the seller\*. **The purpose of this requirement** is to ensure cooperating Participants and subscribers have **timely access** to listed properties. Requiring that a lockbox or other access device be “approved” does not limit the devices that satisfy the requirement to lockboxes leased or sold by the BSCMLS. The BSCMLS requires that any device desired to be used by the key holder be submitted in advance for approval, and the access device may be any lockbox or other access device that provides reasonable, timely access to listed property. The BSCMLS may revoke the approval or subject the participant to discipline if the device is used in a manner that fails to continue to satisfy this requirement. (Amended 05/17)

\*An agent and/or seller may request that no lockbox of any kind be placed on a property and still qualify to be entered on the BSCMLS. MLS-approved lockboxes may be used in conjunction with unapproved lockboxes.

However, if the seller and/or agent requests that the **ONLY** lockbox to be placed on a property is one that has not been approved by the MLS, the property cannot be entered on the MLS. The agent must then submit the Listing

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Exemption Authorization form to the BSCMLS office no later than 11:00pm on the 3rd weekday after this request has been made. If the seller and/or agent later agree to place an MLS-approved lockbox on the property, either by itself or in conjunction with an unapproved lockbox, the listing then meets the qualification to be entered on the MLS. *(Adopted 2/19)*

Permanently Attached Keyless door locks are considered an approved lockbox system. Permanently attached means the keypad cannot be removed from the door without damaging it.

If possible, the participant or subscriber shall ensure the MLS approved lockbox is physically attached to the property (door handle, fence post, etc.). If it is not reasonably possible to physically attach the lockbox to the property, the participant or subscriber may leave the lockbox unattached.

### **1.6.1 – Supra Lockbox Fees**

Supra Lockboxes are the property of the BSCMLS and are available for sale to each Subscriber for a one-time fee of \$130. All new lockbox sales are final; returns are not accepted. After purchase, the lockboxes become the property of the purchaser. Any lockboxes that are lost are the sole responsibility of the owner of the lockbox and will not be covered under MLS or lockbox vendor warranty. Defective lockboxes, however, will be replaced at no charge.

If a Key holder requests warranty service, the BSCMLS will assist the Key holder with the reported problem(s) and obtain the lockbox vendors assistance as necessary. If such problem(s) cannot be cured, the BSCMLS will replace the Product and/or Software under warranty with an appropriate replacement Product or Software from the items consigned to, leased to, or purchased by the BSCMLS. *(Amended 02/17)*

### **1.6.2 – Supra Key Fees**

All Participants and Subscribers will have the option of leasing a key for access to the Supra lockbox system. The fee for leasing a key is determined by Supra and payable to them directly. The BSCMLS has no involvement in the billing of keys other than entering billing information into the Supra system. If your key is lost, please report it to the BSCMLS office immediately and it will be deactivated. A replacement fee will be charged to the key holder by Supra if they choose to purchase or lease a new one. That fee shall be established by Supra.

### **1.7 – Termination Due to Expired License**

Each Participant or Subscriber must hold (a) a valid current real estate license issued by the appropriate state regulatory agency or (b) a valid current license or certification from an appropriate state regulatory agency authorizing the Participant to engage in the appraisal of real property.

The rights and privileges of a Participant or Subscriber to participate in the BSCMLS automatically terminate in the event (a) the real estate license of such Participant or Subscriber is revoked, suspended, expires without renewal by the appropriate state regulatory agency or (b) the license or certification to appraise real property of such Participant or Subscriber is revoked, suspended or expires without renewal by the appropriate state regulatory agency. *(Adopted 08/18)*

### **1.8 – Reinstatement of Terminated Participants and Subscribers**

Terminated Participants, Subscribers, and Office Staff would need to reapply as new members once all past due amounts have been paid, including subscription fees, late fees and reactivation fees to be reinstated to the BSCMLS. Terminated Subscribers and Participants would also be responsible for any new member fees.

### **1.9 – Waiver of BSCMLS Subscriber Fee for Affiliated Licensed REALTORS® or Appraisers**

All real estate and/or appraiser licensees in a Participant's firm must be enrolled as Subscribers to the BSCMLS unless application for a waiver is made and the waiver subsequently granted. Within 30 calendar days of their affiliation with a BSCMLS Participant's firm, all licensees affiliated with the Participant must apply for either (a) subscription to the BSCMLS service or (b) waiver of requirement to participate and subscribe. BSCMLS will notify the Participant in writing when the BSCMLS becomes aware of licensees in the Participant's firm that have not complied with these requirements. Failure to comply with the requirements within 3 weekdays of receipt of notice in writing will result in suspension of MLS services for the entire office until the office is in compliance. *(Amended 11/18)*

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To be granted a waiver, the applicant (hereinafter, "Waiver Applicant") must satisfy and continue to satisfy all of the following requirements:

1. Waiver Applicant must be a licensed REALTOR® or Appraiser
2. Waiver Applicant is NOT a Listing agent for any active Listing included in the BSCMLS;
3. Waiver Applicant does NOT possess, control, or use a lockbox key to enter, view, or show any property that is listed in the BSCMLS;
4. Waiver Applicant does NOT directly or indirectly access or use in any manner whatsoever the Listing information stored in the BSCMLS. Such access and use includes, but is not limited to, direct access to or use of the BSCMLS and the use of the other devices or services provided by the BSCMLS or its affiliated or licensed vendors or suppliers, that permit access to and use of any Listing information from the BSCMLS; and
5. Waiver Applicant does NOT use, directly or indirectly, in any manner whatsoever information from the BSCMLS to list properties for sale or lease, to identify or locate properties for any potential buyers or lessees, and does not participate in listing or sales activity requiring licensure for any properties listed in the BSCMLS.

Both the Waiver Applicant and the Participant who employs the Waiver Applicant, or with whom Waiver Applicant is affiliated through licensure, shall attest and certify in writing that Waiver Applicant meets all of the requirements for waiver of participation. If any Waiver Applicant remains affiliated with the Participant but has become ineligible for a waiver of the fee, the Participant must either: (a) sever the agent from this office, or (b) ensure the agent has subscribed to the BSCMLS within 10 calendar days of the date the applicant becomes ineligible for the waiver. The Participant will be required to supply an additional Waiver Application for any future Waiver Applicants.

Any violation of the conditions of the waiver will result in automatic revocation of the waiver for the individual Waiver Applicant. The Participant will be responsible for all MLS Subscriber fees, retroactive to the date the Waiver Applicant applied for the waiver, plus a \$15,000 non-compliance fine for each Waiver Applicant that has had his or her waiver revoked. Non-payment of the fee(s) within 5 weekdays after the Waiver Applicant is found to be in violation of the waiver conditions will result in MLS access for the Participant and all Subscribers associated under the Participant's account being suspended until all fees and fines have been satisfied. *(Adopted 08/18)*

### **1.9.1 – Certification by Waiver Applicant's MLS Participant**

Participant members of the BSCMLS shall certify to the BSCMLS semi-annually on a form provided by the BSCMLS, a complete list of all individuals enrolled as BSCMLS Subscribers in the Participant's firm. The Participant shall also identify on the form any Waiver Applicants that continue to satisfy all of the requirements all of the requirements listed in **Section 1.9** and the name of the MLS that each Waiver Applicant subscribes to. *(Adopted 08/18)*

### **1.10 – Joining and Going Inactive with the Big Sky Country MLS**

For a Subscriber to join the BSCMLS, the Participant must first join the BSCMLS. All required application paperwork must be submitted to the BSCMLS office before any part of an application will be processed. Quarterly MLS fees are pro-rated on a monthly basis when service begins.

For a Participant or Subscriber to go inactive with the BSCMLS, all required inactivation paperwork must be submitted to the BSCMLS office. MLS Fees are pro-rated monthly when service begins, and refunds are calculated on a monthly basis from the date of inactivation. In order to avoid being charged for a full month of MLS services, all required inactivation paperwork must be submitted by 5:00 pm MST on the 1st calendar day of the month. If inactivation paperwork is submitted after this deadline, the user will be charged for the full month of MLS fees. *(Adopted 11/18)*

**NOTE:** GAR & BSCMLS staff do not have the authority to provide any exceptions to this rule.

### **1.11 – New Member Orientation**

Any applicant for BSCMLS participation and any licensee (including licensed or certified appraisers) affiliated with a BSCMLS Participant who has access to and use of MLS-generated information shall complete an online orientation program devoted to the MLS Rules and Regulations and computer training related to the operation of the Matrix MLS system within thirty (30) days after access has been provided. If the individual is also applying for membership with the Gallatin Association of REALTORS®, an additional section will be required devoted to the operations of the association and the REALTOR® Code of

Ethics. (Amended 11/04) **M**

Failure to take the online orientation class within the first 30 days of membership approval will result in suspension of all BSCMLS services until orientation is completed.

Failure to take the online orientation class within the first 45 days of membership approval will result in termination of the individuals' membership with the BSCMLS\*.

\*Refer to **Section 1.8** for details on Reinstatement of Terminated Participants and Subscribers

### **1.12 – Changes in Rules and Regulations**

Amendments to the Rules and Regulations of the BSCMLS shall be by consideration and final approval of the BSCMLS Board of Directors.

**NOTE:** The BSCMLS may prefer to change the Rules and Regulations by a vote of the Participants of the service, subject to final approval of the BSCMLS Board of Directors. **M**

### **1.13 – Meetings**

The BSCMLS Committee and Board of Directors and shall meet for the transaction of its business at a time and place to be determined by the Committee or Board of Directors or at the call of the BSCMLS Committee Chairperson or BSCMLS President, respectively.

The Committee and Board of Directors chairperson shall preside at all meetings or, in their absence, a temporary chairperson from the membership of the committee or Board of Directors shall be named by the chairperson, or upon his failure to do so, by the committee or Board of Directors.

## **SECTION 2 - LISTING PROCEDURES**

### **2.1 – Submitting a Signed Listing Agreement to the MLS**

The BSCMLS will give the listing agent the benefit of the doubt as to the legality and validity of the information placed in the MLS. If, for any reason, the BSCMLS has reason to question that there is a legal, valid listing, it has the right to request a copy of the listing agreement. Failure to produce a signed listing agreement within 3 weekdays when requested by BSCMLS staff will result in immediate deletion of the listing from the MLS. There are no exceptions, even if the seller requested the listing agent not to disclose a copy of the listing agreement. (Adopted 8/17)

### **2.2 – Standard Forms**

The BSCMLS does not require Participants to enter into listing agreements using a form other than the form a Participant individually chooses to use. However, the BSCMLS may refuse to accept any listing which fails to adequately protect the interests of the public and other Participants and shall not accept any listing which establishes a contractual relationship between the BSCMLS and a Participant's client. (Adopted 08/18).

### **2.3 – NAR's Clear Cooperation Policy**

Listings of Real Property which are listed subject to a real estate Broker's license and located within the BSCMLS service area on 40.000 acres or less must be submitted to the MLS for cooperation with other MLS Participants by 11:00pm on the third (3rd) weekday after a listing agreement goes into effect, **OR within one (1) weekday of marketing the property to the public.** Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, Brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-Brokerage listing sharing networks, and applications available to the general public. (Adopted 5/20) **M**

If you take a listing that is considered a required property type, on 40.000 acres or less, located within the BSCMLS service area, you have 3 weekdays to enter it. If the same property includes a residence, and at any point prior to day 3 you begin to market that property to the public, you now have 1 weekday to enter it.

If your seller wants to withhold their property off the MLS for longer than 3 weekdays, you need to submit the required

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paperwork to the BSCMLS office...properties with a RESIDENCE require a different form than vacant LAND.

When an agent reports a potential violation of the rule, the burden of proof lies on the agent reporting the violation and BSCMLS staff. Clear and convincing evidence must be present to prove beyond a reasonable doubt that the agent is in violation of the rule. The Board of Directors will review the evidence if necessary.

**NOTE:** For mobile/manufactured homes, make sure you have all the details of the structure before entering it into the MLS. Certain restrictions apply for mobile homes built before 1977, as well as manufactured homes built after 1977 that are not secured to a HUD approved foundation.

### 2.3.1 – Property Types Required for Listing Entry

Listings of the following property types, on 40.000 acres or less, locate within the BSCMLS service area, are required for entry on the BSCMLS:

<u>RESIDENTIAL</u>	<u>MULTI-FAMILY</u>	<u>FARM &amp; RANCH</u>	<u>LAND</u>
Single Family	Multiple Dwellings	Land Only (CC)	Vacant Land/Acreage (CC)
Condominium	Duplex	Land w/Residence	Land w/Structure (CC)
Townhouse	Triplex		Land w/Manufactured Home
Manufactured Home	Fourplex		
	Home w/Apartment		
	Cabins		

**NOTE: (CC)** Clear Cooperation Policy does not apply to these property types:

- Land Only
- Vacant Land/Acreage
- Land w/Structure

### 2.3.2 – Property Types that Qualify for Optional Listing Entry

Listings of the following property types, regardless of lot size or location, are optional for entry on the BSCMLS:

<u>MULTI-FAMILY</u>	<u>COMMERCIAL (FOR LEASE)</u>	<u>COMMERCIAL (FOR SALE)</u>
5+ Units	Commercial Land	Business w/Assignable Lease
	Office	Business and Building
	Restaurant	Commercial Building
	Retail	Commercial Condo
	Warehouse	Commercial Land
		Other

**NOTE:** The BSCMLS service area consists of the following counties:

Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Madison, Meagher, Park, Silver Bow, and Sweet Grass.

### 2.4 – Office Exclusive

If the seller refuses to permit the listing to be disseminated by the service, and the property will not be advertised to the public through any of the methods mentioned in the Clear Cooperation policy, AND IT INCLUDES A RESIDENCE, you may then take the listing “**Office Exclusive**” and such listings shall be filed with the service, but not disseminated to other Participants. Filing of the listing should be accompanied by the “**Listing Exemption Authorization for RESIDENCE**” form.

If the property is vacant land and does not include a residence, filing of the listing should be accompanied by the “**Listing Exemption Authorization for LAND**” form. These forms must be signed by the seller indicating that he/she does not want the listing to be immediately disseminated by the service.

**NOTE 1: Office Exclusive defined:**

“Office Exclusive” listings are properties for sale that include a residence but not disseminated through the MLS for cooperation with other MLS Participants. Office Exclusive listings may only be marketed within the listing Brokerage and Brokerages within the firm. If at any point during the term of the listing agreement the property is marketed to the public, the listing must be submitted to the MLS by 11:00pm the following weekday.

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Direct promotion of the listing between the Brokers and licensees affiliated with the listing Brokerage or Brokerages within the firm, and one-to-one promotion between these licensees and their clients, is **NOT** considered public advertising.

### **NOTE 2: Special requirements for LAND listings:**

Land listings that are not going to be submitted to the MLS require a different Listing Exemption Authorization form than properties for sale that include a residence. Vacant subdivision lots that are not on the MLS but are being advertised to the general public will be subject to the rules of Clear Cooperation once excavation has begun.

## **2.5 – Approved Listing Agreements**

The BSCMLS 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 service. However, the BSCMLS, through its legal counsel:

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

The BSCMLS accepts **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 subagents, buyer agents, or both. *(Amended 11/96)*

The listing agreement must include the seller's written authorization to submit the agreement to the MLS. *(Amended 11/96)*

The different types of listing agreements include:

- Exclusive Right-to-Sell
- Exclusive Agency
- Open
- Net

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

The Exclusive Right to Sell listing is the conventional form of listings submitted to the MLS in that the seller authorizes the listing Broker to cooperate with and to compensate other Brokers. *(Amended 4/92)*

The Exclusive Agency listing also authorizes the listing Broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive Agency listings and Exclusive Right to Sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from Exclusive Right to Sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by Exclusive Right to Sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote Exclusive Agency and Exclusive Right to Sell listings with prospect reservations. *(Amended 4/92)*

### **NOTE 1: Regulation of listing agreements**

The BSCMLS does not regulate the type of listings its members may take. This does not mean that the BSCMLS must accept every type of listing. The BSCMLS shall decline to accept Open listings (except where acceptance is required by law) and Net listings, limiting its service to listings of certain kinds of property. The BSCMLS leaves its members free to accept such listings but they must be handled outside the MLS.

### **NOTE 2: Auction properties**

Per NAR's Handbook on Multiple Listing Policy, a MLS may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.\* *(Adopted 11/92)* **M**

*\*The BSCMLS will only allow auction listings if an approved listing agreement is present and active between the listing*

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*Broker and the seller(s). The BSCMLS does not have a separate section of the MLS for auction prices. Auction price must be entered into the "Asking Price" field.*

### **2.6 – Listings Subject to the BSCMLS Rules and Regulations**

Any listing taken on a contract to be filed with the BSCMLS is subject to the Rules and Regulations of the service upon signature of the seller(s).

### **2.7– Detail on Listings Filed with the BSCMLS**

A listing agreement shall be complete in every detail which is ascertainable as specified on the MLS listing.

### **2.8 – Limited Service Listings**

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

- a) arrange appointments for cooperating Brokers to show listed property to potential purchasers but instead gives cooperating Brokers authority to make such appointments directly with the seller(s)
- b) accept and present to the seller(s) offers to purchase procured by cooperating Brokers but instead gives cooperating Brokers authority to present offers to purchase directly to the seller(s)
- c) advise the seller(s) as to the merits of offers to purchase
- d) assist the seller(s) in developing, communicating, or presenting counter-offers
- e) participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

...will be identified as a Listing Type in MLS compilations so potential cooperating Brokers will be aware of the extent of the services the listing Broker will provide to the seller(s), and any potential for cooperating Brokers being asked to provide some or all of these services to listing Brokers' clients, prior to initiating efforts to show or sell the property.

### **2.9 – Business Only Listings**

Business for Sale or Business Only listings are not allowed in the BSCMLS. Only listings which include a business AND building, or business AND an assignable lease are allowed. BSCMLS Subscribers can have their Business for Sale or Business Only listing posted on the GAR and BSCMLS website by completing a 'Business for Sale' form and emailing it to the BSCMLS office. If the property goes under contract, the listing agent is responsible for notifying the BSCMLS office within 3 weekdays after the property has sold. *(Adopted 6/17)*

### **2.10 – Co Listings**

The BSCMLS requires that both co-listing agents must be Participants or Subscribers of the BSCMLS in order to submit the listing. Inclusion of co-listings where the co-listing broker/agent is not a Participant or Subscriber in the BSCMLS is prohibited. BSCMLS members are still legally permitted to accept listing agreements that are co-listed with nonmembers of the BSCMLS, but such listings are prohibited from entry on the BSCMLS. *(Adopted 08/18)*

Because non-member co-listings are prohibited from being submitted to the MLS, submittal of the Listing Exemption Authorization form is not required. *(Adopted 11/18)*

### **2.11 – Multiple Listing Entries**

If a property is listed in multiple categories, only one listing can be recorded as sold. The Broker in Charge will be responsible for removing (cancelling) all other listings. The agent should reference the other listings in each listing input so all cooperating Participants, Subscribers, their clients, and potential buyers searching for property online are aware of all the ways a property is being offered for sale or lease. *(Adopted 08/18)*

### **2.12 – Comparison Only Sales**

The BSCMLS accepts Exclusive Right to Sell and Exclusive Agency listing agreements only. Listing agreements exclusively between the Broker and the BUYER are prohibited from being entered on the BSCMLS.

Comparison Only Sales for all required and non-required property types must be entered in the MLS within 30 days of the property's closing date or lease date.

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If the subject property meets all the criteria for mandatory listing entry described in **Section 3.2**, the property can only be entered for comparison purposes if the Broker submitted the Listing Exemption Authorization.

**NOTE 1:** If a property is entered on the MLS for comparison purposes that meets all the criteria for mandatory listing entry, but the BSCMLS office has no record of the Listing Exemption Authorization on file, the listing agent is in violation of the Late Submission/Non-Submission of Required Listings rule. Violations will follow the notification process and fine schedule per **Section 9.8.2 – Category 2 Offenses**.

**NOTE 2:** Subject properties that meet the criteria for optional listing entry described in **Section 3.3** are permitted for entry as comparison only sales. Per **Section 3.3**, there is no requirement to submit the Listing Exemption Authorization form for non-required listings.

### 2.13 – Change of Listing Status

Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller(s) and shall be filed with the service by 11:00pm the third weekday, with the exception of weekends and US Postal holidays, after the authorized change is received by the listing Broker.

**NOTE 1:** The BSCMLS defines **weekdays** as Monday through Friday

**NOTE 2:** The BSCMLS defines **weekends** as Saturday & Sunday

### 2.14 – Contingencies Applicable to Listings

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

### 2.15 – Listing Price Specified

The full gross listing price stated in the listing contract must be included in the information published in the MLS compilation of current listings. *(Amended 11/92)* **M**

### 2.16 – Listing Multiple Unit Properties

All properties which are to be sold or which may be sold separately must be indicated individually in the MLS listing. When part of a listed property has been sold, required modifications to the listing or status changes must be made by 11:00pm on the third weekday.

### 2.17 – Listings of Suspended Participants

When a Participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, BSCMLS bylaws, BSCMLS 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 service until sold, withdrawn or expired, and shall not be renewed or extended by the BSCMLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the BSCMLS for failure to pay appropriate dues, fees, or charges, the BSCMLS 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 will be advised by BSCMLS staff, in writing, of the intended removal so that the suspended Participant may advise their clients. **M**

### 2.18 – Listings of Expelled Participants **M**

When a Participant of the service is expelled from the BSCMLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, BSCMLS bylaws, BSCMLS 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 service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the BSCMLS for failure to pay appropriate dues, fees, or charges, the BSCMLS 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 will be advised by BSCMLS staff, in writing, of the intended removal so that the expelled Participant may advise their clients.



**2.19 – Listings of Resigned Participants**

When a Participant resigns from the BSCMLS, the BSCMLS 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 will be advised by BSCMLS staff, in writing, of the intended removal so that the resigned Participant may advise their clients.

**2.20 – Ownership of Listing and Listing Content**

Prior to submitting a listing to the MLS, the listing broker should own, or have the authority to license all listing content (e.g., photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property) to be published in the MLS compilation of listing information.

Use of listings and listing information by the BSCMLS for purposes other than the defined purposes of MLS requires the Participants' consent. Such consent cannot be required as a condition of obtaining or maintaining BSCMLS participatory rights. The BSCMLS may presume such consent provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of MLS and given the opportunity to affirmatively withhold consent for that use.

The BSCMLS does not require Participants to transfer ownership rights (including intellectual property rights) in their listings or listing content to the BSCMLS to obtain or maintain participatory rights except that the BSCMLS may require Participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. The BSCMLS may also require Participants to warrant that they have the rights in submitted information necessary to grant these rights to the BSCMLS. *(Adopted 08/18)*

**SECTION 3 - PROPERTY TYPES****3.1 – Real Estate Defined**

Real Estate is "property consisting of land and the buildings on it, along with its natural resources such as crops, minerals or water; immovable property of this nature; an interest vested in this (also) an item of real property, (more generally) buildings or housing in general.

**3.2 – Required Property Types - Listing Entry is Mandatory**

The following property types are required for listing entry on the BSCMLS if the property is on a lot of 40.000 acres or less, AND located within the BSCMLS service area:

**3.2.1 – Residential**

A residential area is a land used in which housing predominates, as opposed to industrial and commercial areas. Housing may vary significantly between, and through, residential areas. Zoning for residential use may permit some services or work opportunities or may totally exclude business and industry. It may permit high density land use or only permit low density uses. Residential zoning usually includes a smaller FAR (floor area ratio) than business, commercial or industrial/manufacturing zoning. The area may be large or small.

**Single Family**

The home is used as a single dwelling unit (1 family), has direct access to a street and does not share heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit. Most single-family homes are built on lots larger than the structure itself, adding an area surrounding the house, which is commonly called a yard. Garages can also be found on most lots and can be either attached to the main structure or detached.

- **Modular Homes**

*Modular homes are residences built in a controlled factory environment in sections, or modules, and then transported to the construction site. There, they are installed on permanent foundations and completed by professional installers. Modular homes have to pass all the same building codes as Single Family homes, and therefore can be classified in the MLS as 'Single Family'. Modular Homes are **NOT** the same as Manufactured*

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*Homes, which are built in a factory and delivered to the construction site in one completed structure. Financing for Single Family and Modular homes also has different rules than Manufactured Homes. To find more information on financing you should contact a professional before offering any guidance to potential buyers.*

- **Accessory Dwelling Units (ADU; Guest House)**

*An ADU is a second complete dwelling unit which is legally built within or on the same lot as an existing single family residence. An ADU provides complete independent living facilities including a kitchen, bathroom and its own entryway. ADUs are typically not allowed to be sold separate from the primary home and the homeowners are usually required to reside in one of the two units.*

- **Attached ADU vs. Detached ADU**

*Detached ADUs are not attached to the main house, and are only accessible by exiting the main structure of the property. The square footage of a Detached ADU cannot be included in the Total Square Footage of the home. ADU Features in the MLS must indicate it is 'Detached'.*

*Attached ADUs, on the other hand, are attached to the main house, and can be accessed without having to leave the main structure of the property, usually through a staircase or annex. The square footage of an Attached ADU can be included in the Total Square Footage of the home. ADU Features in the MLS must indicate it is 'Attached'.*

### Condominium

A type of living space similar to an apartment but independently sellable and therefore regarded as real estate. In most cases, Condominiums share side walls with adjacent units. Condominium owners usually own their individual unit space, and all the dwellings share ownership of common use areas. The individual units normally share walls, but that isn't a requirement. All the land in the condominium project is owned in common by all the homeowners.

- **Detached Condominiums**

*Similar to single-family homes but the yards, corridors, building exteriors, and streets as well as any recreational facilities (like a pool or pools, bowling alley, tennis courts, golf course, etc.), are jointly owned and jointly maintained by a community association. Detached Condominiums must be identified in the Condominium Info tab of the MLS with 'YES' selected for the Detached Condominium field.*

### Townhouse

A form of medium-density housing, whereby a row of attached dwellings share side walls, and often has a small footprint on multiple floors. Townhouse owners usually own the land on which the house is situated, including any front and backyard area that goes with the residence, no matter how small. They also own the home's exterior.

Additionally, townhouse communities generally have homeowners' associations (HOAs).

### Manufactured Home

A type of prefabricated housing that is largely assembled in factories and then transported to sites of use. Manufactured homes are built as dwelling units of at least 320 square feet in size with a permanent chassis to assure the initial and continued transportability of the home. The requirement to have a wheeled chassis permanently attached differentiates "manufactured housing" from other types of prefabricated homes, such as modular homes.

- **Mobile vs. Manufactured**

*"Mobile homes" refers to homes built BEFORE 1976 and "Manufactured homes" refers to those built AFTER 1976 under a higher set of building standards.*

*For a Manufactured home to qualify for Residential listing entry, there are several criteria that must be met, and being secured to the ground on a HUD-approved permanent foundation is one of them (concrete runners with permanent tie-downs are considered permanent foundations).*

*Manufactured homes built in 1976 and prior (a.k.a. 'Mobile Homes') cannot be de-titled because in Montana, titles were not issued for these homes. However, just because a manufactured home built in 1976 and*

*prior cannot be de-titled does not mean it cannot be entered as a Manufactured home in the Residential class.*

*In the Attributes tab of the Residential class there is a field titled "Permanent Foundation Type". The options*

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*available in this field identify what type of permanent foundation a Manufactured home is secured to, a key element in what can be considered a HUD-approved Residential foundation, and whether or not it qualifies for Residential listing entry in the MLS.*

### 3.2.2 – Multi-Family

Multi-Family is a classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. The Multi-Family category includes all buildings containing at least two housing units which are adjacent vertically or horizontally. They do not share a heating system or public utilities such as water supply/sewage disposal.

#### **Duplex**

A Duplex house plan has two living units attached to each other, either next to each other as townhouses or condominiums, or above each other like apartments.

#### **Triplex**

A Triplex house plan has three living units attached to each other, either next to each other as townhouses or condominiums, or above each other like apartments.

#### **Fourplex**

A Fourplex house plan has four living units attached to each other, either next to each other as townhouses or condominiums, or above each other like apartments.

- *The requirement for a listing to be entered as a **Duplex, Triplex, or Fourplex** is that the entire building must be purchased as a whole. If individual units are available as a purchase option, those units must be entered into the appropriate property type (Townhouse or Condominium), accompanied by the submission of the Multiple Listing Entry form to the BCSMLS office on the same day the other listings are entered on the MLS.*

#### **Multiple Dwellings**

Multiple separate housing units for residential inhabitants that are contained within one building or several buildings within one complex. A common form of multiple dwelling listings is separate individual units within a building that otherwise could not be classified as a Duplex, Triplex, or Fourplex. All units in those particular property types are side-by-side, usually separated by a shared wall. Another common form of multiple dwellings is separate individual cabins.

- *The requirement for a listing to be entered as **Multiple Dwellings** is that all units for sale must be purchased together. If individual units are available as a purchase option, those units must be entered into the appropriate property type (Townhouse, Condominium), accompanied by the submission of the Multiple Listing Entry form to the BCSMLS office on the same day the other listings are entered on the MLS.*

#### **Home w/Apartment**

The Home w/Apartment property type can be used as a way to gain more exposure for Residential Single Family homes that include an Attached ADU.

- *The requirement for a listing to be entered as **Home w/Apartment** is that the apartment meets certain criteria, including, but not limited to, a kitchen, living quarters, water, sewer, etc. The apartment must also be accessible without having to leave the main structure to get to it. Square footage for the apartment can be included in the total square footage of the entire building.*

**NOTE:** *if the apartment is not attached to the main structure, it cannot be entered as Home w/Apartment.*

#### **Cabin**

A cabin is a small log house, and less finished or architecturally sophisticated structure than a Single Family residence.

- *The requirement for a listing to be entered as a **Cabin** is that the legal description shown on the Exclusive listing agreement as the primary property for sale belongs to the Cabin and no other structure on the property. Multiple Cabins being sold together can also be entered as Multiple Dwellings.*

#### **5+ Units**

See Section 3.3.1

**3.2.3 – Farm and Ranch**

**FARM** (defined) – land that is, or can be, used for agricultural purposes. Agricultural is a vast field, and the term “farm” encompasses it all. A farm is a land where a farmer grows crops and livestock for dairy products. The focus of people working on a farm is to keep the soil fertile for growing healthy crops.

**RANCH** (defined) – land where livestock is, or can be, raised. A rancher works to maintain the grazing grass as it is essential for the livestock animals.

**Land Only\***

A Farm, or a Ranch, that does not include a residence.

*\* The **Land Only** property type is not subject to the rules of Clear Cooperation*

**Land w/Residence**

A Farm, or Ranch, that includes a residence.

**3.2.4 – Land**

Real Property, is Land which is the property of some person and all structures (also called improvements or fixtures) integrated with or affixed to the land, including crops, buildings, machinery, wells, dams, ponds, mines, canals, and roads, among other things. Personal property was, and continues to be, all property that is not real property. When determining which property type to enter your listing in the Land class, you must first understand what is being sold along with the Real Property (LAND).

**Vacant Land/Acreage\***

A plot of land that does not include any structure of any kind. It is completely vacant of any personal property.

*\* The **Vacant Land/Acreage** property type is not subject to the rules of Clear Cooperation*

**Land w/Mobile or Manufactured Home**

A plot of land that includes a Mobile or Manufactured Home that is not de-titled, secured or tied down to a HUD approved permanent foundation...a.k.a. Personal Property.

**Land w/Structure\***

A plot of land that includes any other structure classified as personal property (i.e., yurts, sheds, wall tents, vehicles, boats, movable goods, etc.).

*\* The **Land w/Structure** property type is not subject to the rules of Clear Cooperation*

**3.3 – Non-Required Property Types - Listing Entry is Optional**

The following property types are not required for listing entry on the BSCMLS. Because these property types are not required for entry, there is no requirement to submit the Listing Exemption Authorization form. The size of the lot and location of the property is irrelevant. However, if any non-required listing is entered on the MLS, it is subject to the same Rules and Regulations as all required property types.

**3.3.1 – Multi-Family Commercial (5+ Units)****5+ Units**

Similar to other multi-family properties that are all connected by shared walls, or multiple dwellings not connected but within the same building, multi-family properties containing 5 or more units qualifies as commercial property for borrowing and tax purposes. For the purposes of the MLS, anything that is classified as a Commercial property is optional for listing entry.

- *The requirement for a listing to be entered as **5+ UNITS** is that all units for sale must be purchased together. If individual units are available as a purchase option, those units must be entered into the appropriate property type (Townhouse, Condominium), accompanied by the submission of the Multiple Listing Entry form to the BSCMLS office on the same day the other listings are entered on the MLS.*

**3.3.2 – Commercial (For Sale)**

The term commercial property (also called commercial real estate, investment or income property) refers to buildings or land intended to generate a profit, either from capital gain or rental income. Commercial property includes office buildings, medical centers, hotels, malls, retail stores, multifamily housing buildings, farm land, warehouses, and garages.

Local authorities commonly maintain strict regulations on commercial zoning, and have the authority to designate any zoned area as such; a business must be located in a commercial area or area zoned at least partially for commerce to be classified as commercial.

**Business w/Assignable Lease**

In addition to the business, the seller is also handing over their lease on the building. An assignable lease is the saleable remaining portion of a lease that a licensee wishes to sell, the value of the lease being gauged on the viability of the business. A number of factors go into calculating this, such as length of remaining lease, profit, rent, area, condition etc.

**Business and Building**

Buildings that are used for commercial purposes, and include office buildings, warehouses, and retail buildings (e.g. convenience stores, 'big box' stores, and shopping malls). In addition to the building, the seller is also offering their business as part of the listing. Examples of items that may be included in the sale of the business and building are, but not limited to, liquor and gaming licenses, appliances, equipment, inventory, furniture, and client portfolios.

**Commercial Building**

Buildings that are used for commercial purposes, and include office buildings, warehouses, and retail buildings (e.g. convenience stores, 'big box' stores, and shopping malls). No business is included in the sale of a Commercial Building listing.

**Commercial Condo**

Commercial condominiums offer business owners, developers and real estate investor's maintenance conveniences similar to those enjoyed by residential condominium owners, as well as tax, marketing and ownership advantages that may not otherwise be available. A commercial condominium unit is, essentially, an enclosed space owned and controlled exclusively by the unit owner. The buildings and the common areas within the development, both internal and external (corridors, public restrooms, elevators, stairways, parking facilities, green space and landscaping), are owned in common by all of the unit owners and administered by a condominium association.

Some examples of commercial condominium developments include newly constructed medical office parks, street-level retail condominiums created in a refurbished urban building with residential condominium units created in the upper floors, and an existing office park or strip mall converted to condominiums to sell space to existing tenants or investors.

**Commercial Land**

Commercial land can be any plot or section of land used for commercial purposes and intended to generate a profit. This means that the land hosts warehouses, industrial property, retail stores, parking lots, malls, hotels, office buildings, and medical centers. Commercial Land listings in the Commercial (FOR SALE) category only include the sale of the land, not any buildings that may be on it.

**3.3.3 – Commercial Lease**

A commercial lease is a contract between a landlord and a business for the rental of property. Most businesses will choose to rent property instead of buying it because it requires less capital. Commercial lease agreements are more complicated than residential leases because the terms are negotiable and vary greatly from lease to lease. Terms subject to change include the rent amount, rent increases, the length of the lease, the ability to assign a lease, and allowable improvements.

Commercial leases usually include the following terms: rent amount, rent increases, security deposit, length of the lease, improvements, description of the property, signs, use clause, exclusivity clause, assigning and subletting, and compliance with the Americans with Disabilities Act (ADA).

**Commercial Land**

Commercial land can be any plot or section of land used for commercial purposes and intended to generate a profit.

**Office**

A room or rooms in a building that provide a suitable environment for office operations.

**Restaurant**

A place where people pay to sit and eat meals that are cooked and served on the premises.

**Retail**

A commercial property used by a company that sells goods or services directly to the buyers.

**Warehouse**

A large building where raw materials or manufactured goods may be stored before their export or distribution for sale.

**Other**

Any commercial business space that does not fall under any of the above mentioned commercial classifications.

**SECTION 4 – CDOM & LISTING STATUSES**

**4.1 – Cumulative Days on Market**

CDOM (Cumulative Days on Market) is a collective sum of the DOM (Days on Market) from the current listing and any previous listings for a specific property. The CDOM for any new listing will include the CDOM from any previous listing for that property unless the previous listing has been off the market for a minimum of 180 days. CDOM does not use any previous listing for a specific property that has sold or leased in its calculation. *(Adopted 6/17)*

**The BSCMLS uses the following status types to indicate a property’s availability:**

**4.2 – Active (A)**

The listing is available with no contingencies. This is an On-Market status

**4.3 – Notice to Remove Contingency (NTRC)**

A deal in which there is a very large contingency (usually for the sale and closing of the buyer's property) and the seller and buyer have agreed that the seller can continue to actively market the property and look at additional offers. And, if the seller gets another offer, the original buyer will be given notice and will have an agreed upon time, usually a few days or hours (48 to 72 hours typically) in which to either withdraw their contingency and continue on with the transaction (usually has to prove that he/she is capable of closing without the contingency) OR withdraw from the transaction - in which case the new offer becomes the primary offer.

As a buyer's agent, the Notice to Remove Contingency creates the opportunity for your client to force the initial buyer out and get the property.

For instance, it might be a buyer with small down-payment, making the appraisal more sensitive. As a buyer's agent, you'll still take a look at the listing thinking there is some possibility the current deal might fall apart, and your client could get to primary position. This is an On-Market status.

**4.4 – Contingent, Backups OK (CBUPOK)**

A stronger looking deal than a Backups Wanted deal. For instance, large down-payment, very high credit score, very good condition property. As a buyer's agent, when you see a Backups OK status, there is much less of a chance that the deal is going to fall through and your buyer client might not get to primary position. This is a Pending status.

**4.5 – Under Contract (UCONT)**

The listing is under contract. This is a Pending status.

**NOTE ON CONTINGENT AND UNDER CONTRACT STATUSES:**

The “Contract Date” is the date all required signatures have been obtained. The “Proposed Closing Date” is the date the property is scheduled to close; if this date changes you must update your listing prior to the proposed closing date to avoid penalty.

**4.6 – Expired (EXPD)**

This is an Off-Market status. Listings automatically expire on the expiration date unless prior to that date the listing Brokerage extends or renews the listing agreement. If the listing agent receives the signed extension from the seller after the listing has expired, the MLS office can extend the listing in the MLS if:

1. The listing agent provides a copy of the amendment to the listing agreement showing the new expiration date
2. The extension was authorized in writing by the seller PRIOR to the listing expiring in the MLS

A listing will never expire while it is in a pending status. However, given the 3-weekday rule for status changes, if a listing expires in the MLS before an agent changes the status of the listing to a pending status, MLS staff can extend the listing in the MLS if:

1. The listing agent provides a copy of the Buy-Sell by 5pm on the third weekday.
2. The Buy Sell was authorized in writing by the seller PRIOR to the listing expiring in the MLS. *(Amended 1/20)*

Listings filed with the BSCMLS shall have a definite and final expiration date, as negotiated between the listing Broker and the seller(s). *(Amended 11/01)* **M**

**4.7 – Cancelled/Terminated (CNLTRM)**

This is an Off-Market status. Listings of property may be canceled or terminated from the MLS by the listing Broker before the expiration date of the listing agreement. Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing Broker and the seller. **M**

Sellers do not have the unilateral right to require an MLS to cancel or terminate their listing without the listing Broker’s concurrence. However, when a seller(s) can document that their exclusive relationship with the listing Broker has been terminated, BSCMLS staff may remove the listing at the request of the seller(s). *(Adopted 11/96)* **M**

**NOTE ON CANCELED OR TERMINATED LISTINGS:**

The Cancelled/Terminated status can be used in various scenarios. If the seller(s) request to terminate their relationship with the listing Broker, the listing agreement has been terminated prior to its listing expiration date and the status should be changed to Cancelled/Terminated. Any MLS member can cancel/terminate a listing through a Broker in Charge’s account, as long as that member has been granted permission to access their account through the Broker in Charge’s “Team” settings.

Scenarios where a listing would be CANCELED include, but may not limited to:

- If the listing Broker enters a property into multiple categories to gain additional exposure, and the property sells, only one of the listings may be reported as sold. All other listings must be canceled.
- If the seller(s) request that their listing be removed from the MLS, but still wishes to retain the listing Brokers representation, the listing must be canceled.
- If the seller(s) request that their ACTIVE listing be removed from the MLS, but still wishes to keep their listing agreement active with the listing agent, the applicable Listing Exemption Authorization form must be submitted to the BCSMLS office within 3 weekdays of the date the listing is canceled on the MLS. Refer to the section on Clear Cooperation and Required vs. Non-Required listing types. If you have questions regarding the correct procedure to take in a situation like this, do not hesitate to contact the BSCMLS office for guidance.
- Canceling a PENDING listing on the MLS to avoid reporting the sold data is a violation of the BSCMLS Rules and Regulations. The buyer has no say in how the reporting of a sale is handled because the listing agreement does not belong to them. If the seller(s) do not wish to have the listing reported as a sale in the MLS, they must make that decision BEFORE they accept any offer. At that point the listing agent may cancel the ACTIVE

listing without penalty.

- Failure to terminate a listing on the MLS within 3 weekdays of the seller(s) written notice to the listing Broker is a violation of the BSCMLS Rules and Regulations rule regarding the Late Reporting of Status Change.
- Cancelled/Terminated listings cannot be reactivated. *(Amended 6/19)*

#### **4.8 – Sold (S)**

The property is sold. This is an Off-Market status

##### **NOTE ON SOLD LISTINGS:**

The BSCMLS allows Participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades and seller concessions. Seller concessions are defined as points paid by the seller(s) on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. *(Adopted 08/18)*

#### **4.9 – Leased (L)**

The property is leased. This is an Off-Market status

## **SECTION 5 - SELLING PROCEDURES**

### **5.1 – 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. *(Amended 4/92) M*

**NOTE:** Despite the NAR mandatory language above, Montana Code Annotated §37-51-321 (l) prohibits a broker or salesperson from “negotiating a sale, exchange, or lease of real property directly with a seller or buyer if the broker or salesperson knows that the seller or buyer has a written, outstanding listing agreement or buyer broker agreement in connection with the property granting an Exclusive Agency to another broker.”

### **5.2 – 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. *(Amended 4/92) M*

### **5.3 – 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. *(Amended 11/05) M*

### **5.4 – Right of Cooperating Broker in Presentation of Offer**

The cooperating Broker (subagent or buyer agent) or their representative has the right to participate in the presentation to



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the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing Broker. However, if the seller or lessor gives written instructions to the listing Broker that the cooperating Broker not be present when an offer the cooperating Broker secured is presented, the cooperating Broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing Broker's right to control the establishment of appointments for such presentations. *(Amended 4/92)* **M**

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

### 5.5 – Right of Listing Broker in Presentation of Counter-offer

The listing Broker or their representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating Broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating Broker that the listing Broker not be present when a counter-offer is presented, the listing Broker has the right to a copy of the purchaser's or lessee's written instructions. *(Adopted 11/93)* **M**

### 5.6 – Reporting Sales to the Service

Status changes, including final closing of sales and sales prices, shall be reported to the MLS by the listing Broker by 11:00pm on the third weekday after the sale or assignment of a lease.

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

**NOTE 2:** In non-disclosure states, such as Montana, the actual sale prices of completed transactions are not publicly accessible. Failure to report sale prices to the MLS will result in disciplinary action.

The BSCMLS may provide sale price information to governmental Board of Directors 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 in aggregate for academic research, statistical analysis, or for providing services to Participants and Subscribers. In any instance where a governmental Board of Directors or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing Participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. *(Adopted 11/11)*

**NOTE 3:** As established in the Virtual Office Website ("VOW") policy, sale prices are categorized as confidential and the actual sale prices of completed transactions are not accessible from public records. *(Adopted 11/11)* **M**

### 5.7 – Reporting Resolutions of Contingencies

The listing Broker shall report to the MLS by 11:00pm on the third weekday that a contingency on file with the MLS has been fulfilled or renewed, or the agreement canceled. **M**

### 5.8 – Advertising of Listings Filed with the Service

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

### 5.9 – Reporting Cancellation of Pending Sale

The listing Broker shall report the cancellation of any pending sale to the MLS by 11:00pm the third weekday. **M**

### **5.10 – Disclosing the Existence of Offers**

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

*(Amended 11/08)*

### **5.11 – Availability of Listed Property**

Listing Brokers shall not misrepresent the availability of access to show or inspect listed property. *(Adopted 11/05)*

## **SECTION 6 - DIVISION OF COMMISSIONS**

### **6.1 – Compensation Specified on Each Listing**

The listing Broker shall specify, on each listing filed with the BSCMLS, the compensation offered to other BSCMLS 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 the BSCMLS 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. *(Amended 11/98)*

In filing a property with the BSCMLS, the Participant of the service is making blanket unilateral offers of compensation to the other BSCMLS Participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other BSCMLS Participants. Specifying the compensation on each listing is necessary, because the cooperating Broker has the right to know what their compensation shall be prior to their endeavor to sell.\* *(Amended 11/96)*

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

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

\*The compensation specified on listings filed with the BSCMLS shall appear in one of two forms. The essential and appropriate requirement by the BSCMLS is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing Broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the BSCMLS shall be shown by a percentage of the gross selling price. *(Amended 5/10)*

**NOTE 1:** The BSCMLS shall not have a rule requiring the listing Broker to disclose the amount of total negotiated commission in their listing contract, and the BSCMLS shall not publish the total negotiated commission on a listing which has been submitted to the BSCMLS by a Participant. The BSCMLS shall not disclose in any way the total commission negotiated between the seller and the listing Broker.

**NOTE 2:** The listing Broker may, from time to time, adjust the compensation offered to other BSCMLS Participants for

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their services with respect to any listing by advance published notice to the service so that all Participants will be advised. *(Amended 4/92)*

**NOTE 3:** The BSCMLS shall make no rule on the division of commissions between Participants and non-Participants. This should remain solely the responsibility of the listing Broker.

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

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

**NOTE 6:** The BSCMLS gives Participants the ability to disclose to other Participants any potential for a short sale. The BSCMLS may require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. In any instance where a Participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other Participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating Participants. All confidential disclosures and confidential information related to short sales must be communicated through the Short Sale/Foreclosure field, which is only visible to BSCMLS Participants and Subscribers. *(Amended 5/09) M*

### **6.2 – No Control of Commission Rates or Fees Charged by Participants**

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

### **6.3 – Disclosing Potential Short Sales**

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing Participants. *(Amended 5/09)*

When disclosed, Participants may, at their discretion, advise other Participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating Participants. *(Adopted 5/09) M*

### **6.4 – Participant as Principal**

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

**NOTE:** ownership disclosure should be provided in the “Agent Remarks” field in the MLS.

### **6.5 – 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. *(Adopted 2/92) M*

### **6.6 – 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

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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 in the Dual/Variable Commission field, which is only visible to BSCMLS Participants and Subscribers. 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. *(Amended 5/01)* **M**

### **SECTION 7 - PROHIBITIONS**

#### **7.1 – Information for Participants Only**

Any listing filed with the service shall not be made available to any Broker or firm not a member of the BSCMLS without the prior consent of the listing Broker. **M**

#### **7.2 – For Sale Signs**

Only the For Sale sign of the listing Broker may be placed on a property. *(Amended 11/89)* **M**

#### **7.3 – Sold Signs**

Prior to closing, only the sold sign of the listing Broker may be placed on a property, unless the listing Broker authorizes the cooperating (buyer) Broker to post such a sign. *(Amended 4/96)* **M**

#### **7.4 – Solicitation of Listing Filed with the Service**

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

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

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

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

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

#### **7.5 – Use of the Terms Multiple Listing Service and MLS**

No BSCMLS 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 the BSCMLS rules to provide to clients or customers is available on their websites or otherwise. *(Adopted 11/07)*

**7.6 – Defamatory Listing Content**

Statements within the BSCMLS referencing the negative performance of REALTORS® (Cooperating members or otherwise) appraisers, home inspectors, attorneys, title companies or other industry related professionals is strictly prohibited and subject to fines and/or Code of Ethics charges as determined by the Board of Directors.

**7.7 – Misuse of Public Remarks**

Information in the public remarks shall only relate to the marketing, description and condition of the property. No contact information is permitted, including names, phone or fax numbers, email addresses or website addresses (including virtual tours and transaction tracking URLs). No showing instructions are permitted, including references to lockbox, alarm, gate or other security codes, or the occupancy of the property (a statement that the property shall be delivered vacant is not a violation of this section). No information directed toward real estate agents or Brokers, including compensation or bonuses offered to Cooperating Brokers may be shown in public remarks. By submitting remarks to the MLS, the Participant and/or Subscriber represents and warrants he or she has the authority to grant, and hereby grants the BSCMLS and the other Participants and Subscribers the right to reproduce and display the remarks in accordance with these rules. Copying of remarks by a subsequent listing agent for use in his or her own listing requires prior written authorization from the originating listing agent or other appropriate party with the legal right to reproduce and display such remarks. *(Adopted 08/18)*

**SECTION 8 - COMPLIANCE WITH RULES****8.1 – Compliance with Rules and Regulations - Authority to Impose Discipline**

By becoming and remaining a Participant or Subscriber in the BSCMLS, each Participant and Subscriber agrees to be subject to these Rules and Regulations and any other MLS governance provision. The BSCMLS may, through the administrative and hearing procedures established in this handbook, impose discipline for violations of the Rules and Regulations 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 a stated period of time *(Amended 7/17)*
- f) termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Adopted 3/10)*

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

**8.2 – Compliance with Rules**

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

- a) failure to pay any service charge or fee within thirty (30) days of the due date (60 days from the original invoice date), the service shall be suspended until service charges or fees are paid in full.
- b) failure to pay any service charge or fee within sixty (60) days of the due date (90 days from the original invoice date),

membership shall be terminated

- c) for failure to comply with any other rule, the provisions of **Section 8** shall apply

### **8.3 – Applicability of Rules and Regulations to Participants, Subscribers, and Office Staff**

Non-principal brokers, sales licensees, appraisers, Office Staff, and others authorized to have access to information published by the BSCMLS 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, Subscriber, or Participant to abide by the Rules and Regulations and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all Office Staff or Subscribers affiliated with the Participant. *(Adopted 4/92)*

## **SECTION 9 - ENFORCEMENT OF RULES AND DISPUTES**

### **9.1 – Consideration of Alleged Violations**

The BSCMLS Board of Directors shall give consideration to all written complaints having to do with violations of the BSCMLS 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 BSCMLS Board of Directors. *(Amended 02/19)*

### **9.2 – Violations of Rules and Regulations**

If the alleged offense is a violation of the BSCMLS Rules and Regulations and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the BSCMLS Board of Directors, and if a violation is determined, the BSCMLS Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee in accordance with the Gallatin Association of REALTORS® bylaws and BSCMLS Rules and Regulations within (20) twenty days following receipt of the BSCMLS Board of Directors' decision. *(Amended 08/18)*

If, rather than conducting an administrative review, the BSCMLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the BSCMLS Board of Directors within (20) twenty days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the Professional Standards Committee for processing in accordance with the professional standards procedures of the Gallatin Association of REALTORS®. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the BSCMLS Board of Directors. *(Amended 08/18)*

### **9.3 – Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the BSCMLS Board of Directors for appropriate action in accordance with the professional standards procedures established in the Gallatin Association of REALTORS® bylaws. *(Amended 08/18)*

### **9.4 – 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 BSCMLS office. Such notice shall be in writing and specifically identify the allegedly unauthorized content and be delivered to the BSCMLS office not more than sixty (60) days after the alleged misuse was first identified. No Participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this section of the BSCMLS rules.

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

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If the BSCMLS Board of Directors determines that the use of the content was unauthorized, the BSCMLS Board of Directors may issue a sanction pursuant to **Section 8** of the BSCMLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the BSCMLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the BSCMLS Board of Director's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. *(Adopted 2/19)*

### **9.5 – MLS Rules Violations**

MLS Participants may not take legal action against another Participant for alleged rules violation(s) unless the complaining Participant has first exhausted the remedies provided in these rules. *(Adopted 02/19)*

### **9.6 – Reporting of MLS Violations**

The success of the Multiple Listing Service depends on the commitment of all Participants and Subscribers to adhere to the BSCMLS Rules and Regulations for operating the Service. Anyone may report the discovery of inaccurate or incomplete information in the BSCMLS database. Members may report inaccurate or incomplete information in the database by using the "Report Data Error" feature located at the top of the MLS Listing Report. Any other policy violations that exist outside of the database may be emailed or phoned to MLS Staff. Members must provide their name when filing a complaint but may request that their name not be used in contacting the respondent. BSCMLS Staff will check the database to confirm the violation. *(Amended 3/18)*

### **9.7 – Fines**

The BSCMLS Fine Schedule is approved by the BSCMLS Board of Directors on an annual basis. Fines can be changed during the year if a 30-day notice has been given to all Participants. *(Amended 7/17)*

#### **9.7.1 – Fine Assessment and Payment**

An individual Subscriber violating a rule imposes a fine to the Participant that the Subscriber is affiliated with. The Participant is held responsible for the Subscriber's violations and for payment of fines, based on the BSCMLS Fine Schedule.

The Participant will have thirty (30) calendar days from the initial fine notice (including weekends and US Postal holidays) to pay the fine. If the fine is not paid in thirty (30) days, a non-payment fine, as described in the BSCMLS Fine Schedule, will be assessed to the Participant. The Participant will have an additional thirty (30) days to pay the fine(s). If the Participant fails to pay the fine(s) within thirty (30) days, the entire office will be suspended from the MLS and the lockbox system until the fine(s) are paid.

Fines will follow the Participant and unpaid amounts will be the responsibility of the current Participant holding the license, even if the Subscriber is no longer associated with that office. Failure to pay accumulated fines of \$1,000 or more may result in the termination of BSCMLS and Lockbox services for the entire office. *(Amended 7/17)*

BSCMLS Staff has permission to waive/refund fines and their associated violations in the compliancy system for clerical errors up to \$150. *(Adopted 9/19)*.

#### **9.7.2 – Appealing Fines**

The Participant may appeal a fine to the BSCMLS Board of Directors within (20) twenty days of the last fine notice. To appeal, the Participant should submit an email to the MLS Director with an explanation of why they feel they did not violate the BSCMLS Rules and Regulations. Fines will continue to accrue on the Participant's account during the appeal process, per the BSCMLS Fine Schedule. If the BSCMLS Board of Directors rules in favor of the Participant, all additional fines associated with the original appealed fine will be removed from the Participant's account. If the BSCMLS Board of Directors rules in favor of BSCMLS Staff, the Participant will be responsible for payment of all fines accrued to date. *(Amended 7/17)*

**9.8 – BSCMLS Fine Schedule (Amended 8/19)**

- Notifications of MLS infractions are emailed to the Participant of the office.
- Invoices for MLS infractions are email to the Broker in Charge the following week day after the notification is sent.
- If the violation has occurred by a Subscriber in the Participants office, the Subscriber will be copied on the notification emails being sent to the Participant.
- Email notifications to Subscriber and Participants are based on the email address on file with the Association office.
- A “My Violations” widget will appear on the MLS home page of any Participant and/or Subscriber who has received such notice(s).
- For violations that qualify for a 3-weekday correction allowance, the allowance will start the day AFTER the Participant has been notified by email.
- For Category 1 and Category 3 violations, corrections must be made no later than 11pm on day 3 of the correction allowance.
- For the context of violation grace periods, a weekday is determined to be Monday-Friday with exceptions for US Postal holidays.
- BSCMLS staff only has the authority to waive fines in the following circumstances:
  - a) As laid out in **sections 9.8.2** and **9.8.3** of this policy
  - b) If staff made an error in assessing a fine
  - c) In unique situations where MLS policy does not explicitly address the situation at hand
- Any violations of the same rule by the same agent within a 24-hour period (bulk violations) will be counted as one violation.

**9.8.1 – Category 1 Offenses**

**Category 1 offenses will follow the notification process and fine schedule below:**

1. When a violation occurs, a Courtesy email is sent to the Participant/Subscriber stating what the violation is. The Participant/Subscriber has 3 weekdays to correct the violation.
2. If the violation is not corrected in 3 weekdays, a \$20 fine will be assessed to the Participants account. The Participant/Subscriber has another 3 weekdays to correct the violation.
  - The Participant will have a maximum of 30 calendar days to pay the fine.
  - If the fine is not paid by the due date, the entire office will lose access to the MLS and lockboxsystem until the fine is paid.
3. If the violation is not corrected within 3 weekdays, a \$30 fine will be assessed to the Participants account and the entire office will lose access to the MLS and lockbox system.
  - All fines must be paid in full for the office to regain its MLS privileges.
  - The Participant/Subscriber has 24 hours from the time MLS privileges are restored to correct the violation (Amended 1/20).

**Category 1 violations include:**

1. **Unallowable data in virtual tour field**  
The virtual tour field is for URLs pointing to web pages specific to the listed property. Links to any other websites are prohibited.
2. **Unallowable data in public data fields**  
Public data fields are defined as fields provided on Matrix customer reports, the Client Portal, and data distributed



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through IDX, including but not limited to Photos, Photo Captions, Directions, Public Remarks, and Associated Documents. Examples of prohibited data include, but are not limited to, agent names, company logos, agent photos, contact information, or agent/company website URLs.

### 3. **Incorrect or missing information in any data field**

Required data entry items are denoted and must be completed accurately using resources provided or available. Entering zeros or “to be determined” to bypass a data entry field is prohibited. This would also include inputting “Anonymous” or “On File” to bypass Owner’s Name.

### 4. **Incorrect property type, class or MLS area**

Properties may not be entered as an incorrect class and/or type or in the wrong MLS defined area. Examples include but are not limited to; properties with less than an acre lot entered as over 1 acre, commercial properties for lease entered in the Commercial/Industrial class.

### 5. **Fictitious listing data**

Invalid, fictitious or improper information entered on a listing is prohibited.

### 6. **Incorrect recording of multiple entries of the same property**

If a property is listed in two or more MLS categories, only one listing can be recorded as sold. The broker will be responsible for closing only one listing when the property sells and removing (cancelling) the other listings. The agent must reference the other listings in each listing input. *(Amended 08/17)*

### 7. **Failure to meet the photo requirement on a listing *(Amended 03/20)***

A minimum of 3 different photos of the property must be included with the listing at all times, regardless of status. For properties with a residence, at least 1 of those photos must be of the front-exterior of the home.

### 8. **Unallowable Data on Photos**

No marketing device of any type (e.g., logos, company names, agent names, phone numbers, web sites, email addresses including embedded, overlaid or digitally stamped information, etc.) shall appear with the photo. The listing agent’s/broker’s information is not to be visible in the photos in any way, including readable yard signs, brochure boxes, car decals, etc.

### 9. **Inaccurate or incomplete information for closings (Solds) for listings entered on the MLS**

Examples include but are not limited to; not reporting the cooperation agent and office, nondisclosure of concessions made at closing affecting the reported sold price.

### 10. **Entering a Security Access Code in any Field of the MLS System. *(Amended 11/18)***

Entering a security code of any kind in any field of the MLS system is prohibited. Examples include, but are not limited to, gate codes, building codes, keypad codes, etc.

### 11. **Data integrity regarding the manipulation of MLS content *(Adopted 11/18)***

Manipulation of listing information, including but not limited to: property history, days on market information, pricing, etc. is prohibited.

### 12. **Failure to extend proposed closing date *(Adopted 11/18)***

If the listing has not been changed to sold status within 3 weekdays after the proposed closing date, the listing agent is in violation, and the proposed closing date must be extended in the MLS.

## 9.8.2 – Category 2 Offenses

**Category 2 offenses will follow the notification process and fine schedule below:**

1. When a violation occurs, an email is sent to the Participant/Subscriber stating what the violation is and a warning that if the offender violates the same rule again within a 12-month rolling calendar they will receive a fine.
2. If the Participant/Subscriber violates the same rule a 2<sup>nd</sup> time in a 12-month rolling calendar, a \$50 fine will be assessed to the Participants account.
  - The Participant will have a maximum of 30 calendar days to pay the fine.
  - If the fine is not paid by the due date, the Participant will receive an additional \$100 fine and the office will

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lose access to the MLS and lockbox system until the fines have been paid.

3. If the Participant/Subscriber violates the same rule a 3<sup>rd</sup> time in a 12-month rolling calendar from when the 1<sup>st</sup> violation occurred, a \$100 fine will be assessed to the Participants account.
  - The Participant will have a maximum of 30 calendar days to pay the fine.
  - If the fine is not paid by the due date, the Participant will receive an additional \$100 fine and the office will lose access to the MLS and lockbox system until the fines have been paid.
4. Any additional violations by the Participant/Subscriber of the same rule within a 12-month rolling calendar will result in the BSCMLS Board of Directors determining the appropriate course of action.

### Category 2 violations include:

1. **Unauthorized Distribution of MLS Data and Copyrighted Information**  
Data filed with the service is owned and copyrighted by the Gallatin Association of REALTORS® and the Big Sky Country MLS and is for the exclusive use of Participants and Subscribers in accordance with these Rules and Regulations.
2. **Violation of Office Staff Guidelines\***  
Performing any unauthorized activities laid out in **Section 1.4.2** of the BSCMLS Rules and Regulations – “Unauthorized Conduct of Office Staff,” with the exception of password sharing. Password sharing is a Category 4 violation and will follow the Category 4 notification process and fine schedule.  
  
\*Violations of this rule will be applied to the Participant that the Office Staff member is affiliated with.
3. **Late Submission/Non-Submission of Required Listings (or Listing Exemption Authorization Form) or Late Reporting of Status Change. (Amended 08/19)\***  
Listings required in the MLS shall be submitted to the MLS, or documentation excluding the listing from the MLS, shall be submitted to the MLS office by 11:00pm the third weekday after the listing agreement goes into effect.  
  
All sales closed must be entered by 11:00pm the third weekday after the actual closing/funding date. Anything later than this a fine will be imposed. Withdrawing listings to avoid reporting sold data is strictly prohibited.  
  
Properties whose status has changed shall be reported to the service by 11:00pm the third weekday.  
  
\*The first violation of the Late Submission/Non-Submission of Required Listings (or Listing Exemption Authorization from the BSCMLS Form), or Late Reporting of Status Change rule may be waived by BSCMLS staff for clerical error only. For staff to waive a violation under this rule, the MLS member must provide sufficient proof, as determine by BSCMLS staff, that the violation was not a violation of the rule itself, but rather a clerical error, such as a typo in the listing information. Staff only has the authority to waive a violation for clerical error under this rule 1 time per agent within a 12-month rolling calendar. Any additional clerical violations under this rule will follow the fine schedule as outlined in **Section 9.8.2**. Violations of this rule that are not clerical in nature will follow the fine schedule as outlined in **Section 9.8.2**, with no option for waiver of the violation or fine by staff. (Adopted 08/19).

### 9.8.3 – Category 3 Offenses

#### Category 3 offenses will follow the notification process and fine schedule below:

1. When a violation occurs, a Courtesy email is sent to the Participant/Subscriber stating what the violation is. The Participant/Subscriber has 3 weekdays to correct the violation.
2. If the violation is not corrected in 3 weekdays, a \$250 fine will be assessed to the Participants account. The Participant/Subscriber has another 3 weekdays to correct the violation.
3. If the violation is not corrected by the final deadline (6 weekdays from the date the Courtesy notice was sent), the entire office will lose access to the MLS and lockbox system until the violation is corrected and the fine has been paid.
  - The Participant will have a maximum of 30 calendar days to pay the fine.
  - Non-payment of all fines by the due date will result in an additional \$500 fine and the entire office will lose access to the MLS and lockbox system until all fines have been paid.

**Category 3 violations include:**

**1. Violation of Co-Listing Policy**

The BSCMLS requires that both co-listing agents are subscribers or Participants of the BSCMLS in order to submit the listing. Inclusion of co-listings where the co-listing broker/agent is not a Participant or Subscriber in the MLS is prohibited.

**NOTE:** To be compliant with this rule, the listing agent must perform one of the actions below:

- a) remove the non-member from the listing agreement and provide a copy of the listing agreement to the BSCMLS showing the agent is no longer representing the seller
- b) the non-member joins the BSCMLS by 5:00pm on the 3<sup>rd</sup> weekday after notice has been given of the infraction.

*Fines for non-compliance with this rule cannot be waived by BSCMLS staff.*

**2. Listings Submitted to the MLS Without a Valid Agreement**

Listings reported to the service must have a valid written agreement between seller/landlord and the listing broker. If the BSCMLS has sufficient evidence to question the validity of an MLS listing, staff has the authority to request a copy of the listing agreement from the agent.

**NOTE:** To be compliant with this rule, the listing agent must supply MLS Staff with a signed copy of the listing agreement within 3 weekdays of receiving the Courtesy notice. The listing date in the MLS must match the listing date noted on the agreement.

*Fines for non-compliance with this rule cannot be waived by BSCMLS staff.*

**3. Use and Placement of Unapproved Lockboxes**

Any lockbox used as a security measure that has not been approved by the MLS. Please refer to the “Examples of Current Approved and Unapproved Lockbox Systems” document located in the MLS Documents section of the BSCMLS website.

**NOTE 1:** Permanently Attached Keyless door locks are considered an approved lockbox system. Permanently attached means the keypad cannot be removed from the door without damaging it.

**NOTE 2:** Commercial properties, properties on lot sizes of 40.001 acres or more, or properties located outside the BSCMLS service area are exempt from the lockbox policy. Refer to Sections 3.2 and 3.3 for Required vs. Non-Required properties

**NOTE 3:** To be compliant with this rule, (1) the listing agent must provide evidence via photograph that an approved security measure has been applied to the subject property, AND (2) the “Lockbox Type” field in the MLS is updated to show the approved security measure has been taken. Both actions must occur to become compliant with the rule and avoid the \$250 fine.

If the participant receives a fine for non-compliance, the first fine associated with the rule may be waived by BSCMLS staff if the agent provides additional evidence that (3) the approved security measure was applied to the subject property within 3 weekdays from the date the Courtesy notice was sent, and (4) the lockbox has been assigned to the property. If necessary, BSCMLS staff can help the agent obtain this information by running an audit report for the agents Supra lockbox showing this activity has occurred. Without the assignment of the lockbox in the Supra system, it will be difficult for the agent to prove the lockbox has in fact been placed on the subject property. For the first fine to be waived, all 4 actions mentioned here in Note 3 must have occurred. Be aware that fines for subsequent violations cannot be waived by BSCMLS staff.

If the agent does not own an approved lockbox, the agent can purchase a Supra lockbox from the BSCMLS or provide a purchase receipt of another approved lockbox type (i.e., Sentrilock).

**9.8.4 – Category 4 Offenses**

**Category 4 offenses will follow the notification process and fine schedule below:**

1. When a violation occurs, an immediate fine email will be sent to the participant/subscriber stating what the violation is and a \$1000 fine has been assessed to the Participants account.
  - The participant has 30 calendar days to pay the fine.
  - Non-payment of fines by the due date will result in an additional \$1500 fine and the entire office will lose access to the MLS and lockbox system until all fines have been paid.
2. If the participant/subscriber violates the same rule a 2<sup>nd</sup> time in a 12-month rolling calendar, a \$3000 fine will be assessed to the Participants account.
  - The participant has 30 calendar days to pay the fine.
  - Non-payment of fines by the due date will result in an additional \$1500 fine and the entire office will lose access to the MLS and lockbox system until all fines have been paid.
3. If the participant/subscriber violates the same rule a third time within a 12-month rolling calendar, a \$5000 fine will be assessed to the Participants account and the entire office will lose access to the MLS and lockbox system until all fines have been paid.
4. Any additional violations by the participant/subscriber of the same rule within a 12-month rolling calendar will result in the BSCMLS Board of Directors determining the appropriate course of action.

**Category 4 violations include:**

1. **Sharing of MLS Username and Password**  
Sharing of MLS username and password are strictly prohibited.
2. **Sharing of Lockbox Key or Authorization Code**  
Sharing of Lockbox Keys is strictly prohibited. This includes other licensed agents, licensed assistants, Office Staff, clients, family members, and friends.

**9.8.5 – Category 5 Offenses (Adopted 05/20)**

**Category 5 offenses will follow the notification process and fine schedule below:**

1. When a violation occurs, an email is sent to the participant/subscriber stating what the violation is and a warning that if the offender violates the same rule again within a 12-month rolling calendar they will receive a fine.
  - The participant will be fined \$10 per day until the violation is corrected
2. If the participant/subscriber violates the same rule a 2<sup>nd</sup> time in a 12-month rolling calendar, a \$50 fine will be assessed to the Participants account.
  - The participant will be fined \$10 per day until the violation is corrected.
  - The participant will have a maximum of 30 calendar days to pay all fines.
  - If the fines are not paid by the due date, the participant will receive an additional \$100 fine and the office will lose access to the MLS and lockbox system until the fines have been paid.
3. If the participant/subscriber violates the same rule a 3<sup>rd</sup> time in a 12-month rolling calendar from when the 1<sup>st</sup> violation occurred, a \$100 fine will be assessed to the Participants account.
  - The participant will be fined \$10 per day until the violation is corrected
  - The participant will have a maximum of 30 calendar days to pay all fines.
  - If the fines are not paid by the due date, the participant will receive an additional \$100 fine and the office will lose access to the MLS and lockbox system until the fines have been paid.
4. Any additional violations by the participant/subscriber of the same rule within a 12-month rolling calendar will result in the BSCMLS Board of Directors determining the appropriate course of action.

**Category 5 violations include:**

**1. Violation of Clear Cooperation Policy**

In any situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service, is subject to the rules of the Clear Cooperation Policy, and is not currently available to other MLS Participants, the listing broker is in violation.

To correct the violation, the participant must choose one of the following options, and the correction must be made by 11:00pm the day after the violation notification is sent:

- a) Enter the listing into the MLS for cooperation with other Participants
- b) Submit the Listing Exemption Authorization form to the BSCMLS office and provide proof that all public marketing has stopped. This must be done by 11:00pm the day after this notice is sent.

**9.9 – Failure to Pay Quarterly MLS Fees**

For failure to pay fees by 11:00pm on the due date, the Participant will be charged a late fee equal to one-third of the offices original invoice, or an amount equal to one (1) month of MLS services for each subscriber.

If the Participant fails to pay fees by 11:00pm thirty (30) days from the original due date, BSCMLS and lockbox services to the Participant and all Subscribers under the Participant shall be suspended, and a late fee equal to two-thirds of the offices original invoice, or an amount equal to two (2) months of MLS services for each subscriber.

Reinstatement of services would require payment on all accounts (including all late charges and reactivation fees) for the month(s) during which service was suspended.

If the Participant fails to pay all subscription fees, late fees and reactivation fees by 11:00pm sixty (60) days from the original due date, membership of all nonpaying members shall automatically be terminated. The Participant will also be sent notice that all Active and Pending listings in the MLS that are associated with the office will be Cancelled/Terminated by Big Sky Country MLS staff.

For any listing(s) that are co-listed with a cooperating office, in which the cooperating office is still in good standing, the terminated Participants office and agent(s) will be removed from the listing by BSCMLS staff. The cooperating office in good standing will be notified that the terminated co-listed office is no longer part of that listing(s).

**Section 10 - CONFIDENTIALITY OF MLS INFORMATION**

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

**Section 10.1 – Confidential Fields**

The BSCMLS compilation contains confidential fields that are for the exclusive use of Participants and Subscribers affiliated with such Participants. These fields are not to be distributed at any time or in any situation to any person or persons who are not themselves Participants or affiliated with a Participant of the BSCMLS. These fields include:

Owner Name	Occupant Name	Agent Remarks
Owner Phone Number	Occupant Phone Number	Agent Contact Information
Showing Instructions	Commission Information	Short Sale/Foreclosure Details

**Section 10.2 – MLS Not Responsible for Accuracy of Information**

The information published and disseminated by the BSCMLS is communicated verbatim, without change by the service, as

filed with the service by the participant. The BSCMLS does not verify such information provided and disclaims any responsibility for its accuracy. Each participant agrees to hold the BSCMLS harmless against any liability arising from any inaccuracy or inadequacy of the information such participant provides.

### **Section 10.3 – Access to Comparable and Statistical Information**

REALTORS® who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the BSCMLS, may not receive any information other than current listing information that is generated wholly or in part by the BSCMLS. The BSCMLS may charge an appropriate fee for providing such information.

## **SECTION 11 - OWNERSHIP OF MLS COMPILATION\* AND COPYRIGHT**

By the act of submitting any property listing content to the BSCMLS, the Participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these Rules and Regulations, and also thereby does grant to the BSCMLS 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 the listed property. *(Amended 5/18)* **M**

Each Participant who submits listing content to the BSCMLS agrees to defend and hold the BSCMLS 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. *(Adopted 5/18)* **M**

\*The term MLS compilation, as used in **Sections 11** and **12** herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants.

**NOTE 1:** 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 Participants and Subscribers hosting an IDX display.

**NOTE 2:** 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, the BSCMLS has taken the recommendation that the service itself, Participants and Subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The “agent” could be the 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.

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

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the BSCMLS and in the copyrights therein, shall at all times remain vested in the BSCMLS. **M**

### **SECTION 12 - USE OF COPYRIGHTED MLS COMPILATION**

#### **12.1 – Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any BSCMLS compilation leased to them by the association of REALTORS®, 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 BSCMLS. Use of information developed by or published by the BSCMLS 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 the BSCMLS where access to such information is prohibited by law. *(Amended 4/92)*

#### **12.2 – Display**

Participants and those persons affiliated as licensees with such Participants shall be permitted to display the BSCMLS 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 BSCMLS compilation. **M**

#### **12.3 – Reproduction**

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

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

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

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

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

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

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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 BSCMLS content in data feeds available to Participants for real estate Brokerage purposes must also be available to Participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require Participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations. *(Amended 05/14)* **M**

### **SECTION 13 - LIMITATIONS ON USE OF MLS INFORMATION**

Information from BSCMLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the BSCMLS may be used by BSCMLS 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 information about specific properties which are listed with other Participants, or which were sold by other Participants (as either listing or cooperating Broker). **M**

### **SECTION 14 - ADVERTISING**

These model rules are updated to reflect changes made to NAR's Advertising Policies. The following content is taken verbatim from the NAR's Handbook on Multiple Listing Policy.

#### **14.1 – Advertising/Marketing Real Property or Real Estate Brokerage Services (Adopted 8/17)**

##### **Advertising or Marketing Real Property**

An Internet site which consists of information regarding properties which have been listed with a real estate brokerage, the identity of that real estate brokerage or licensee for each property and information related to those properties.

##### **Advertising or Marketing of Real Estate Brokerage Services**

An Internet site which includes an offer or solicitation to provide services related to marketing or identifying real property for sale or lease.

#### **14.2**

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional.

#### **14.3**

A licensed firm which has authorized advertising or marketing real property on a site on the Internet must include on the page on which the firm's advertisement or marketing appears the following data:

- the city in which the property being advertised or marketed is located;
- the firm's name as registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted; and
- if the firm does not hold a real estate brokerage license for the jurisdiction in which the property is located, the



regulatory jurisdiction(s) in which the firm does hold a real estate brokerage license.

#### 14.4

A licensed firm advertising or marketing real estate brokerage services on a site on the Internet must include on the firm's home page or on a clearly identified link appearing on that page, the following data:

- the firm's name as registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted;
- the city and state/province in which the firm's office is located; and
- the regulatory jurisdictions in which the firm holds a real estate brokerage license.

#### 14.5

A licensee who has authorized advertising or marketing real property on a site on the Internet must include on the page of the site on which the licensee's advertisement or information appears the following data:

- the licensee's name;
- the city in which the property being advertised or marketed is located;
- the name of the firm with which the licensee is affiliated as that firm name is registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted; and
- if the licensee does not hold a real estate broker or salesperson license for the jurisdiction in which the property is located, the regulatory jurisdiction(s) in which the licensee does hold a real estate broker or salesperson license.

#### 14.6

A licensee advertising or marketing real estate brokerage services on a site on the Internet must include on the firm's home page or on a clearly identified link appearing on that page, the following data:

- the licensee's name;
- the name of the firm with which the licensee is affiliated as that firm name is registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted;
- the city and state/province in which the licensee's office is located; and
- the regulatory jurisdiction(s) in which the licensee holds a real estate broker or salesperson license.

#### 14.7

A licensed firm using Internet electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for advertising or marketing purposes, must include on the first or last page of all communications the following data:

- the firm's name as registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted;
- the city and state/province in which the firm's office is located; and
- the regulatory jurisdictions in which the firm holds a real estate brokerage license.
- This rule shall not apply to communications between a licensed firm and a member of the public provided that: (i) the member of the public has sent a communication to the licensed firm; and (ii) that the licensed firm's initial communication contained the information required above.

#### 14.8

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A licensee using Internet electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for advertising or marketing purposes, must include on the first or last page of all communications the following data:

- the licensee's name;
- the name of the firm with which the licensee is affiliated as that firm name is registered with (name of real estate regulatory Board of Directors, commission, board etc.) or the d/b/a (doing business as) name it has registered with the appropriate state/province agency, commonly recognized abbreviations are permitted;
- the city and state/province in which the licensee's office is located; and
- the regulatory jurisdiction(s) in which the licensee holds a real estate broker or salesperson license.
- This rule shall not apply to communications between a licensee and a member of the public provided that: (i) the member of the public has sent a communication to the licensee; and (ii) that the licensee's initial communication contained the information required above.

### 14.9

A licensed entity advertising or marketing real property on a site on the Internet that is either owned or controlled by the licensed entity shall periodically, but not less than every thirty-one (31) days, review the advertising and marketing information on the site concerning real property listed by the licensed entity to assure it is current and not misleading. Whenever information on properties listed by other licensed entities is displayed or distributed on a licensed entity's site, the site shall disclose when the information was downloaded or that the information displayed or distributed is information currently available from another identified source.

### 14.10

Licensed entities may display and distribute, electronically or otherwise, information about properties listed by other licensed entities only with the authorization of the listing broker. This authorization may be express or, if both licensed entities participate in a cooperative service, may be set forth in the rules of that service. Licensed entities may not alter the online display or any information about the listing without the written permission of the listing broker.

### 14.11

REALTORS® may use the term "free" and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time.

### 14.12

REALTORS® may represent their services as "free" or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time.

### 14.13

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice.

### 14.14

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord.

### 14.15

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or

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listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTOR'S® firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures.

### 14.16

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees.

### 14.17

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property. Prior to closing, a cooperating broker may post a “sold” sign only with the consent of the listing broker.

### 14.18

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS®' websites. REALTORS® shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a REALTOR®'s website is no longer current or accurate, REALTORS® shall promptly take corrective action.

### 14.19

REALTOR® firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner. Websites of REALTORS® and non-member licensees affiliated with a REALTOR® firm shall disclose the firm's name and that REALTOR®'s or non-member licensee's state(s) of licensure in a reasonable and readily apparent manner.

### 14.20

REALTORS®' obligation to present a true picture in their advertising and representations to the public includes Internet content posted, and the URLs and domain names they use, and prohibits REALTORS® from:

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

### 14.21

REALTORS® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner.

### 14.22

REALTORS® shall not:

- use URLs or domain names that present less than a true picture, or
- register URLs or domain names which, if used, would present less than a true picture.

### 14.23

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled.

### 14.24

All forms of promotion done by the brokerage company and by the individual sales associates, including marketing brochures,

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newspaper and radio advertising, and throughout social media channels, must comply with the nondiscriminatory goals of the Fair Housing Act.

To comply:

- Avoid using language that indicates a bias against a protected class
- Use consistent language in all the advertising for the same property
- Describe the property attributes, not prospects you think would like it. For example, say “a beautiful, fully fenced backyard,” not “a great backyard for children.”
- Use human models of different ages, sexes, and races in your advertising, if you use models
- Choose advertising media that cover a broad range of markets and don’t exclude certain groups

### **SECTION 15 - INTERNET DATA EXCHANGE (IDX) M**

The BSCMLS does not charge its members for IDX. Participants seeking IDX must sign up as a customer with the IDX vendor of their choice. The IDX vendor must register for an account through CoreLogic’s Trestle® platform as a Technology Provider (TP) to establish a connection with the BSCMLS listing database. Trestle recommends using Postman or RETS Connector from CoreLogic to establish this connection. While both RETS and Web API methods are supported, RESO RETS has reached the end of its life cycle and users are strongly encouraged to connect via Web API. Trestle Documentation is available for TPs through Trestle’s API Library.

All TPs are required to submit a data license agreement through Trestle®, for all new customers (exclusively BSCMLS Participants/Subscribers), signed by a representative with the vendors organization, the agent/broker requesting the data connection, and the Broker in Charge for the agent/brokers firm. All signatures are obtained through Authentisign, a third-party service used by Trestle® to facilitate the IDX connection process. Once all signatures are obtained, the data license agreement is then sent via Authentisign to the BSCMLS for final approval. BSCMLS staff reviews the license agreement to verify the agent/broker requesting the data is an active member of the BSCMLS and in good standing with the BSCMLS, their local association (which may or may not be the Gallatin Association of REALTORS®), their state association (which may or may not be the Montana Association of REALTORS®), and the National Association of REALTORS®. Once the members’ status has been verified, the BSCMLS must approve the data license agreement through Trestle® within seventy-two (72) hours of first receiving the agreement. After the data license agreement has been approved, the TP is notified that they can proceed to their Trestle® account to “pull” the data from the BSCMLS and “push” it to the agent/brokers website.

The data available through the Trestle service adheres to the Real Estate Standards Organization (RESO) Data Dictionary. By using this design, the data is structured to handle Properties of all types and catalog the details of each property.

Queries of the data can be tailored to return very specific attributes of a single Property or large collections of data for many Properties.

#### **15.1 – Internet Data Exchange (IDX) Defined**

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

#### **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 BSCMLS 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. \* *(Amended 7/18)*

\*Even where Participants have given blanket authority for other Participants to display their listings through IDX, such consent

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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. *(Amended 05/17)*

### **15.3 – Participation**

Participation in IDX is available to all BSCMLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. *(Amended 11/09)*

#### **15.3.1**

Participants must notify the BSCMLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 05/12)*

#### **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. *(Amended 05/12)*

#### **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. *(Amended 05/17)*

#### **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, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., Exclusive Right to Sell or Exclusive Agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each participant. *(Amended 05/17)*

#### **15.3.5**

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

#### **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. *(Amended 05/12)*

#### **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. *(Amended 05/12)*

#### **15.3.8**

Any IDX display controlled by a participant or subscriber that 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 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. *(Adopted 05/12)*

#### **15.3.9**

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Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, Participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Amended 05/12)*

### **15.3.10**

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

### **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 fields. *(Adopted 05/15)*

### **15.3.12**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.\* *(Amended 05/17)*

\*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. *(Amended 5/17)*

## **15.4 – Display**

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

### **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 Subscribers (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. *(Amended 05/12)*

#### **15.4.1.1**

The type of listing agreement (e.g., exclusive right to sell, Exclusive Agency, etc.) may not be displayed. *(Amended 05/12)*

### **15.4.2**

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

### **15.4.3**

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

### **15.4.4**

All listings displayed pursuant to IDX shall show the MLS as the source of the information.\* *(Amended 05/17)*

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\*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. *(Amended 05/17)*

### 15.4.5

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. *(Amended 05/12)*

### 15.4.6

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

### 15.4.7

Listings obtained through IDX feeds from Realtor® Association MLSs where the MLS participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained\* *(Amended 05/17)*

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

\*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. *(Amended 05/17)*

### 15.4.8

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

### 15.4.9

Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant’s logo and contact information is larger than that of any third party. *(Adopted 11/09)*

## 15.5 – Service Fees and Charges

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

## 15.6 – Use of MLS Information in Advertising and Other Public Representations

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable reports may be used by MLS Participants as the basis for aggregated demonstrations of market share or for

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comparisons of firms in public mass-media advertising and other public representations. MLSs may, as a matter of local determination, prohibit advertising or representations about specific properties which are listed with other Participants or which were sold by other Participants (as either listing or cooperating broker).

Any print or non-print form of advertising or other public representation based in whole or in part on information supplied by the MLS must clearly disclose the source of the information and the period of time over which such claims are based. (Adopted 11/04)

### SECTION 16 - VIRTUAL OFFICE WEBSITES (VOW)

#### 16.1 – VOW Defined

- a) A “Virtual Office Website” (VOW) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate Brokerage services to consumers with whom the Participant has first established a Broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the Participant’s oversight, supervision, and accountability. A non-principal Broker or sales licensee affiliated with a Participant may, with their 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. **M**
- b) As used in **Section 16** of these rules, the term “Participant” includes a Participant’s affiliated non-principal Brokers and sales licensees—except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a Participant, by a non-principal Broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a Participant. **M**
- c) “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS listing information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW. **M**
- d) 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. **M**

#### 16.2

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

#### 16.3

- a) Before permitting any consumer to search for or retrieve any MLS listing information on their VOW, the Participant must take each of the following steps.
  - i. The Participant must first establish with that consumer a lawful Broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate Brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are



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not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

- ii. The Participant must obtain the name of and a valid e-mail address for each Registrant. The Participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The Participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - iii. The Participant must require each Registrant to have a username and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at their 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. **M**
- b) The Participant must assure that each Registrant's password expires on a certain date, 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. **M**
- c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, e-mail address, 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. **M**
- d) The Participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
- i. that the Registrant acknowledges entering into a lawful consumer-Broker relationship with the Participant
  - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
  - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
  - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database. **M**
- e) The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click. **M**
- f) The terms of use agreement shall also expressly authorize the MLS and other MLS Participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the Participant and the Registrant. **M**

### 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. **M**

**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. **M**

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

**16.6**

- a) A Participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing Broker to withhold the seller's listing or property address from display on the Internet. The listing Broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet. **M**
- b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision. **M**

**Seller Opt-out Form**

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

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Initials of Seller

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

**16.7**

- a) Subject to Subsection b., below, a Participant's VOW may allow third-parties:
  - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing. **M**
- b) Notwithstanding the foregoing, at the request of a seller, the Participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing Broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to **Section 16.8**, 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. **M**

**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

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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. **M**

### 16.9

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

### 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. **M**

### 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. **M**

### 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, cooperative compensation offered by listing Broker, and whether the listing Broker is a REALTOR®. **M**

### 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. **M**

### 16.14

A Participant may operate more than one VOW himself or herself 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. **M**

**NOTE:** Adoption of Sections 16.15 thru 16.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on Participants' use of MLS listing information in providing Brokerage service through all other delivery mechanisms.

### 16.15

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

- a) expired and withdrawn listings

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

- b) the compensation offered to other MLS Participants
- c) the type of listing agreement, i.e., Exclusive Right to Sell or Exclusive Agency
- d) the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e) instructions or remarks intended for cooperating Brokers only, such as those regarding showings or security of listed property
- f) sold information

**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.

**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.

**16.18**

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

**16.19**

A Participant shall require that Registrants' passwords be reconfirmed or changed every ninety (90) days.

**NOTE:** Participants may, at their option, require Registrants to reconfirm or change passwords more frequently. **M**

**16.20**

A Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on their 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.

**16.21**

A Participant shall cause any listing displayed on their 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.

**16.22**

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

**16.23**

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