

# STATEN ISLAND MULTIPLE LISTING SERVICE, INC. RULES AND REGULATIONS

## Listing Procedures

**Section 1 Listing Procedures.** Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the multiple listing service, and are taken by participants on Exclusive Right to Sell listings or Exclusive Agency listings shall be delivered to the multiple listing service within **24 hours** after all necessary signatures of seller(s) have been obtained: *(Amended 11/01) (Simls Amended 5/18/21)*

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange
- d. commercial/industrial property for sale, lease or exchange
- e. business property with associated real property lease for sale
- f. single family or two-family homes for rent or lease

**Note 1:** The multiple listing service shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:

- reserves the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants, and;
- assures that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller).

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

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

The different types of listing agreements include:

- exclusive right-to-sell
- exclusive agency
- open
- net

The service may not accept **net listings** because they are deemed unethical and, in most states, illegal. **Open listings** are not accepted except where required by law because the inherent nature

of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. *(Amended 4/92)*

The **exclusive right-to-sell** listing is the conventional form of listing submitted to the multiple listing service 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 exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. *(Amended 4/92)*

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

**Section 1.1 Types of Properties.** Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the participant's option provided, however, that any listing submitted is entered into within the scope of the participant's licensure as a real estate broker: *(Amended 11/91)* • residential income producing • motel-hotel • residential income • mobile homes • subdivided vacant lot • mobile home parks • land and ranch • commercial income • business opportunity • industrial

**Section 1.1.1 Listing Subject to Rules and Regulations of the Service.** Any listing taken on a contract to be filed with the multiple listing service is subject to the rules and regulations of the service upon signature of the seller(s).

**Section 1.2 Detail on Listings Filed with the Service.** A listing agreement or property data form, when filed with the multiple listing service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

**Section 1.2.0 Accuracy of Listing Data.** Participants and Subscribers are required to submit accurate listing data and required to correct any known errors. *(Adopted 1.1.21) M*

**Section 1.3 Exempted Listings.** If the seller refuses to permit a required listing to be disseminated by the service, the participant may then take the listing as an office exclusive and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing must be accompanied by certification (Office Exclusive Certification) signed by the seller that he does not desire the listing to be disseminated by the service. An Office Exclusive Listing

is only distributed to the agents in the Participants office. **If, or when, it is marketed in any way beyond the participants office it must be converted to an MLS listing within 24 hours.**

**The fine for failure to comply with Section 1.3:**

**First Offense: \$2,000.00; Second Offense: \$3,000.00; Third Offense: \$5,000.00 (& Suspension)**

**Section 1.4 Change of Status of Listing.** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the service within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker. Availability Status changes (i.e. Acceptance, Under Contract, Sold, Temporary Off Market, Hold, Released, Withdrawn, Back on Market (Active)) must be reported to the SIMLS within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker. If a Participant refuses or fails to comply with these provisions the listing in question may be removed by the SIMLS. Prior to removal of any listing the participant shall be advised of the intended removal so the participant can advise his/her client(s). *(Adopted 09/2009)*

**Section 1.5 Withdrawal of Listing Prior to Expiration.** Listings of property may be withdrawn or released from the multiple listing service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal or release.

Sellers do not have the unilateral right to require an MLS to withdraw or release a listing without the listing broker's concurrence. However, when a seller(s) can document that his exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. *(Adopted 11/96)*

**Note:** The "Release" may be a form or a letter from the listing participant to the seller(s) unconditionally releasing said seller(s) from their contract. This form or letter does not require the seller's signature. The listing participant is not protected on this release. The use of this form by the listing broker is strictly voluntary and an option to be exercised at the discretion of the listing broker.

A "Withdrawal" is a form or a letter, signed by the seller(s) and the listing participant whereby the seller(s) states that he no longer wishes to sell, lease or otherwise dispose of the property and in the event said property is sold, leased or otherwise disposed of within\_\_\_\_ days (It is recommended that the amount of time be fair and reasonable.), the listing participant will be paid a commission. The use of this form is strictly voluntary and an option to be exercised at the discretion of both the listing participant and the seller(s).

**Section 1.6 Contingencies Applicable to Listings.** Any contingency or conditions of any term in a listing shall be specified and noticed to the participants.

**Section 1.7 Listing Price Specified.** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings. *(Amended 11/92)*

**Section 1.8 Listing Multiple Unit Properties.** All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the multiple listing service.

**Section 1.9 No Control of Commission Rates or Fees Charged to Participants.** The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants.

**Section 1.10 Expiration of Listings.** Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice, signed by the seller, that the listing has been extended or renewed. *(Amended 11/01)*

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the listing must be submitted as a new listing with a new Listing Agreement, signed by the seller. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. *(Amended 11/01)*

**Section 1.11 Termination Date on Listings.** Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing broker and the seller.

**Section 1.12 Service Area.** Only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant, but cannot be required by the service. *(Amended 11/17)*

**Section 1.13 Listing 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, MLS bylaws, MLS rules and regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the 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 suspension became effective. If a participant has been suspended from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including

continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise his clients.

**Section 1.14 Listing of Expelled Participants.** When a participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled participant shall, at the participant's option, be retained in the 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 association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the expelled participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled participant's listings from the MLS, the expelled participant should be advised, in writing, of the intended removal so that the expelled participant may advise his clients.

**Section 1.15 Listing of Resigned Participants.** When a participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned participant's listings from the MLS, the resigned participant should be advised, in writing, of the intended removal so that the resigned participant may advise his clients.

## Selling Procedures

**Section 2. Showings and Negotiations.** Appointments for showings and negotiations with the seller for the purchase of listed property filed with the multiple listing service shall be conducted through the listing broker, except under the following circumstances:

- a. the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- b. after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (*Amended 4/92*)

**Section 2.1 Presentation of Offers.** The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. (*Amended 4/92*)

**Section 2.2 Submission of Written Offers.** The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

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*)

**Section 2.3 Right of Cooperating Broker in Presentation of Offer.** The cooperating broker (subagent, broker agent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the 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*)

**The fine for failure to comply with Section 2.3 is: \$2,500.00**

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, 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 11/18*)

**The increasing fine for Listing broker's failure to provide written affirmation or notification from Seller is:**

**24 Hours: \$2,500.00; 48 Hours: \$3,500.00; AFTER 48 Hours: \$5,000.00**

**Section 2.4 Right of Listing Broker in Presentation of Counter-offer.** The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. (*Adopted 11/93*)

**The fine for failure to comply with Section 2.4 is: \$2,500.00**

**The increasing fine for Cooperating broker's failure to provide written affirmation or notification from Buyer is:**

**24 Hours: \$2,500.00; 48 Hours: \$3,500.00; AFTER 48 Hours: \$5,000.00**

**Section 2.5 Reporting Sales to the Service.** Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing broker within 24 hours after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 24 hours after receiving notice from the cooperating broker. *(Amended 11/08)*

**The fine for failure to comply with Section 2.5 – (Active, Acceptance, TOM) – within 24-hours is: \$250.00.**

**The fine for failure to report All Other Status changes is: \$200.00**

**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.

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

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

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

**Section 2.6 Reporting Resolution of Contingencies.** The listing broker shall report to the multiple listing service within twenty-four (24) hours that a contingency on file with the multiple listing service has been fulfilled or renewed, or the agreement cancelled.

**The fine for failure to comply with Section 2.6 is \$100.00**

**Section 2.7 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.

**The fine for failure to comply with Section 2.7 is \$1,500.00**

**Section 2.8 Reporting Cancellation of Pending Sale.** The listing broker shall report immediately to the multiple listing service the cancellation of any pending sale, and the listing shall be reinstated immediately.

**The fine for failure to comply with Section 2.8 is \$250.00 (same as Section 2.5)**

**Section 2.9 Disclosing the Existence of Offers.** Listing brokers, in response to inquiries from buyers or cooperating brokers, shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. *(Adopted 11/05)*

**Section 2.10 Availability of Listed Property.** Listing brokers shall not misrepresent the availability of access to show or inspect listed property. *(Adopted 11/05)*

**The fine for failure to comply with Section 2.10 is \$1,000.00**

## **Refusal to Sell**

**Section 3 Refusal to Sell.** If the seller of any listed property filed with the multiple listing service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the service and to all participants.

## **Prohibitions**

**Section 4 Information for Participants Only.** Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.



**Section 4.1 For Sale Signs.** Only the For Sale sign of the listing broker may be placed on a property. *(Amended 11/89)*

**The fine for failure to comply with Section 4.1 is \$250.00**

**Section 4.2 Sold Signs.** Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. *(Amended 4/96)*

**The fine for failure to comply with Section 4.2 is \$250.00**

**Section 4.3 Solicitation of Listing Filed with the Service.** Participants shall not solicit a listing on property filed with the service unless such solicitation is consistent with Article 16 of the REALTORS®' Code of Ethics, its Standards of Practice, and its Case Interpretations.

**Note:** This section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4 (REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. *(Amended 1/94)*. 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.

**Section 4.4 Use of the Terms MLS and Multiple Listing Service.** No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under

MLS rules to provide to clients or customers is available on their websites or otherwise.  
(Adopted 11/07)

## Division of Commissions

**Section 5 Compensation Specified on Each Listing.** The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. (Amended 11/98)

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

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

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

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

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

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

**Note 2:** The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for 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 multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker, with the informed consent of the seller/landlord (under NY State law).

**Note 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval or to lender 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 or by a lender. In such instances, the fact that the gross commission is subject to court or to lender 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. *(Adopted 5/10)*

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

**Note 6:** Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers *(Adopted 5/08)*

### **Section 5.0.1 Disclosing Potential Short Sales.**

Participants may, but are not required to, 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) to other participants and subscribers. 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)*

Where participants 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 the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within 24 hours of receipt of notification from the lender. *(Adopted 5/10)*

**Section 5.1 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 multiple listing service, that person shall disclose that interest when the listing is filed with the multiple listing service and such information shall be disseminated to all multiple listing service participants.

**The fine for failure to comply with Section 5.1 is \$250.00**

**Section 5.2 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)*

**The fine for failure to comply with Section 5.2 is \$250.00**

## **Service Charges**

**Section 6 Service Fees and Charges.** The following service charges for operation of the multiple listing service 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:** An applicant for participation in the service shall pay an application fee established by the directors with such fee to accompany the application.

**Recurring Participation Fee:** The annual participation fee of each participant shall be an amount established by the Service times each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant and who is a Realtor or Realtor-Associate members of the Staten Island Board of Realtors. The fee for a Realtor or Realtor-Associate member of any other Realtor Association shall be an amount established by the Service. Payment of such fees shall be made on or before the first day of the April of each year. Fees shall be prorated on a monthly basis. The participant will also pay a fee established by the Service quarterly for each office participating in the multiple listing service. Participants who are Realtor members of any Realtor association other than the Staten Island Board of Realtors will be charged a quarterly fee established by the Service. This quarterly fee will entitle the participant to \$140.00 towards the payment of listing fees which must be used during the following 12 months. The quarterly fee will also entitle the participant to credit (for three months) towards a recurring participation fee for the participant or the office manager.

However, SIMLS will provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. SIMLS requires waiver recipients and their participants to sign a certification for nonuse of its MLS services by their licensees, which includes penalties and termination of the waiver if violated. *(NAR Adopted 8/18)*

**Recurring Participation Fee for Assistants:** The annual participation fee of each affiliated (with a Participant) unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers participant shall be an amount equal to \$90.00 who has access to and use of the service. Payment of such fees shall be made on or before the first day of the July of each year. Fees shall be prorated on a monthly basis.

**Listing Fee:** For filing a new listing with the service, a fee, which shall accompany each listing when filed with the service may be established by the service.

## Compliance with Rules

**Section 7 Compliance with Rules—Authority to Impose Discipline.** By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand

- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Adopted 11/07)*

**Note 1:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) 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 MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. *(Revised 05/14) M*

**Note 2:** MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. *(Adopted 11/20) M*

**Section 7.1 Compliance with Rules.** The following action may be taken for noncompliance with the rules:

- a. for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full
- b. for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply

## Meetings

**Section 8 Meetings.** The meetings of the participants in the service or the board of directors of the multiple listing service for the transaction of business of the service shall be held in accordance with the provisions of Article 7, bylaws of the service.

## Enforcement of Rules or Disputes

**Section 9 Considerations of Alleged Violations.** The SIMLS Rules Committee shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a Participant, each Participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the board of directors (*NAR Amended 5/18*)

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. (*Amended 11/20*) **M**

**Section 9.1 Violations of Rules and Regulations.** If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the board of directors of the service, and if a violation is determined, the board of directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the directors' decision. (*Amended 11/96*)

The Board of Directors may appoint a Rules Committee with a majority of active participants and an optional minority of licensed subscribers to enforce the Rules and Regulations in compliance with paragraph 9.1.

Alleged violations involving unethical conduct shall be referred to the professional standards committee of the association of REALTORS® for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®. (*Amended 2/98*)

**Section 9.2 Complaints of Unethical Conduct.** All other complaints of unethical conduct shall be referred by the board of directors of the service to the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. (*Amended 11/88*)

**Section 9.3 Complaints of Unauthorized Use of Listing Content.** Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS 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 9.3 of the MLS rules.

Upon receiving a notice, the SIMLS Rules Committee will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either:

1) remove the allegedly unauthorized content, or 2) provide proof to the SIMLS Rules Committee that the use is authorized. Any proof submitted will be considered by the SIMLS Rules Committee, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the SIMLS Rules Committee determines that the use of the content was unauthorized, the SIMLS Rules Committee may issue a sanction pursuant to Section 7 of the SIMLS 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 SIMLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the SIMLS Rules Committee'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. (NAR Adopted 5/18)

Section 9.4 MLS Rules Violations. SIMLS 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. (NAR Adopted 5/18)

## **Confidentiality of MLS Information**

**Section 10 Confidentiality of MLS Information.** Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants. (*Amended 4/92*)

**Section 10.1 MLS Responsibility for Accuracy of Information.** The information published and disseminated by the service is communicated verbatim, without change by the service, as SIMLS Inc. Rules & Regulations – Last Approved by **SIMLS BOD** 5-18-2021; **NAR** 11-20-2019



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

## Ownership of MLS Compilation\* and Copyright

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\*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, including but not limited to bound book, loose-leaf binder, computer database, card file, or any other format whatsoever.

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**Section 11** By the act of submitting any property listing content to the MLS 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 MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property. *(NAR Amended 5/18) M*

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. *(NAR Adopted 5/18)*

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

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

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
2. Develop and post a DMCA-compliant website policy that addresses repeat offenders.
3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must

promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.

4. Have no actual knowledge of any complained-of infringing activity.
5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

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

**Section 11.1** All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Staten Island Board Multiple Listing Service, Inc. and in the copyrights therein, shall at all times remain vested in the Staten Island Multiple Listing Service, Inc.

**Section 11.2** Each participant shall be entitled to lease from the Staten Island Multiple Listing Service, Inc. a number of copies of each MLS compilation sufficient to provide the participant and each person affiliated as a licensee (including licensed or certified appraisers) with such participant with one copy of such compilation. The participant shall pay for each such copy the rental fee set by the association.\*\* Participants shall acquire by such lease only the right to use the MLS compilation in accordance with these rules.

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\*\*This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

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## **Use of Copyrighted MLS Compilation**

**Section 12 Distribution.** Participants shall, at all times, maintain control over and responsibility for each copy of any MLS 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 MLS. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association multiple listing service where access to such information is prohibited by law. (*Amended 4/92*)

**Section 12.1 Display.** Participants and those persons affiliated as licensees with such participants shall be permitted to display the MLS compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS compilation.

**Section 12.2 Reproduction.** Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:

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

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

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

None of the foregoing shall be construed to prevent any authorized individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuations 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)*

## Use of MLS Information

**Section 13 Limitations on Use of MLS Information.** Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

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

Based on information from the Staten Island Multiple Listing Service, Inc. for the period *(date)* through *(date)*. *(Amended 11/97)*

**The fine for failure to comply with Section 13 - \$250.00**

## Changes in Rules and Regulations

**Section 14 Changes in Rules and Regulations.** Amendments to the rules and regulations of the service shall be by consideration and approval of the board of directors of the multiple listing service, subject to final approval by the board of directors of the Staten Island Board of REALTORS® (shareholder).

## Arbitration of Disputes

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**Section 15 N/A (See NAR Realtor's Code of Ethics)**

## **Standards of Conduct for MLS Participants**

**Section 16 N/A (see NAR Realtor's Code of Ethics)**

### **Orientation**

**Section 17 Orientation.** Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. *(Amended 11/04)*

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

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

**Section 18 IDX Defined.** IDX affords MLS participants the ability to authorize limited electronic display of their listings by other participants. *(Amended 05/12)*

**Section 18.1 Authorization.** Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.

**Section 18.2 Participation.** Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. *(Amended 11/09)*

**Section 18.2.1 MLS Monitoring and Compliance.** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 05/12)*

**Section 18.2.2 Protection from “Scraping”.** 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)*

**Section 18.2.3 Seller’s Rights to Withhold.** 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. *(NAR Amended 5/17)*

**Section 18.2.4 Participant’s Ability to Select Listings to Display.** 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. *(NAR Amended 5/17)*

**Section 18.2.5 Data Refresh.** Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every (12) hours. *(Amended 11/14)* **M**

**Section 18.2.6 Restrictions on Use.** 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)*

**Section 18.2.7 Display of Brokerage Name.** 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)*

**Section 18.2.8 Third-Party Comments & AVM.** Any IDX display controlled by a participant or subscriber that:

1. 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
2. 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 18.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Amended 05/12)*

**Section 18.2.9 Participant's Responsibility to Correct False Data.** 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)*

**Section 18.2.10 Display of IDX Information by Real Estate Franchise Organizations.** 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) M*

**Section 18.2.11 Manipulating Information Relating to Other Participants Listings.**

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. (NAR Adopted 5/15) **M**

**Section 18.2.12 Display of Listing Firm.**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g. “thumbnails”, txt 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 (the required disclosures must be) linked to through the devices application. (NAR Amended 5/17)

**Section 18.3 Display.** Display of listing information pursuant to IDX is subject to the following rules:

**Section 18.3.1** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. (Amended 05/12)

**Section 18.3.1.1** The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 05/12)

**Section 18.3.2** Deleted May 2015.

**Section 18.3.3**-Deleted May 2017.

**Section 18.3.4** N/A.

**Section 18.3.5** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own Web sites subject to their participant’s consent and control and the requirements of state law and/or regulation.



**Section 18.3.6** Deleted November 2006.

**Section 18.3.7** All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc. of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. *(Amended 05/12)*

**Section 18.3.8** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc. of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. *(Amended 05/12; 5/17)*

Section 18.3.8.1. Participant’s IDX display must include the following SIMLS disclaimer or substantially similar. Participant shall replace “20XX” with the current year as of January 1 each year. *(Local Amendment 3/21)*

Certain real estate listing data is provided by Staten Island MLS under its Internet Data Exchange program. This data is provided exclusively for consumers’ personal, non-commercial use and may only be used for identifying prospective properties consumers may be interested in purchasing or renting. Any other use of the data is hereby prohibited. Data deemed reliable but is not guaranteed accurate by Staten Island MLS and should be independently verified. Copyright 20XX Staten Island Multiple Listing Service, Inc. All rights reserved. *(Local Amendment 3/21)*

**Section 18.3.9** The data consumers can retrieve or download in response to an inquiry shall be determined by the SIMLS but in no instance shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer. *(Amended 11/17)*

**Section 18.3.10** The right to display other participants’ listings pursuant to IDX shall be limited to a participant’s office(s) holding participatory rights in this MLS.

**Section 18.3.11** Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings

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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. 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 11/14)*

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

**Section 18.3.12** Display of expired, withdrawn, and pending listings is prohibited. *(Amended 11/14)*

**Section 18.3.13** Display of seller’s(s’) and/or occupant’s(s’) name(s), phone number(s), and email address(es) is prohibited.

**Section 18.3.14** Participants are required to employ appropriate security protection such as firewalls on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS. *(Amended 05/12)*

**Section 18.3.15** Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. *(Amended 05/12)*

**Section 18.3.16** Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

**Section 18.4 Service Fees and Charges.** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. *(Adopted 11/01, Amended 5/05)*

**Failure to comply with the provisions of Section 18 is \$500.00**

## Virtual Office Websites (VOWs)

### Section 19.1 VOW Defined.

- a. A “Virtual Office Website” (VOW) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b. As used in Section 19 of these rules, the term “participant” includes a participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “participant’s consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a participant.
- c. “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.
- d. As used in Section 19 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

### Section 19.2

- a. The right of a participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b. Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX).

- c. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant's VOW.

### **Section 19.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
  - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The participant must obtain the name of and a valid 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 user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, 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.
- 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, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
  - i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant

- ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
  - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
  - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database
- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f. The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

**Section 19.4** A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions or get more information about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

**Section 19.5** A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

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

**Section 19.6**

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.

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.

<p style="text-align: center;"><b>Seller Opt-out Form</b></p> <p>1. Check one.</p> <p style="padding-left: 40px;">a. ____ I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.</p> <p style="padding-left: 40px;">b. ____ I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.</p> <p>2. I understand and acknowledge that if I have selected Option a., consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.</p> <p>_____ Initials of Seller</p>
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c. The participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

**Section 19.7**

a. Subject to Subsection b., below, a participant’s VOW may allow third-parties:

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

b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the

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

**Section 19.8** A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 19.9** A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

**Section 19.10** Except as provided in these rules, in the **NATIONAL ASSOCIATION OF REALTORS®**, VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

**Section 19.11** A participant's VOW must display the participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 19.12** A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a **Realtor®**.

**Section 19.13** A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

**Section 19.14** A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates his or her own VOW may contract with an AVP to have the

AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

**Section 19.15** A participant's VOW may not make available for search by or display to Registrants any of the following information:

- a. expired or withdrawn listings
- b. the compensation offered to other MLS participants
- c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property

**Section 19.16** A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

**Section 19.17** A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

**Section 19.18** Deleted

**Section 19.19** Deleted

**Section 19.20** A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

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

**Section 19.21** A participant may display advertising and the identification of other entities ("co-branding") on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising



or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

**Section 19.22** A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

**Section 19.23** Deleted

**Section 19.24** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

**Section 19.25** Where a seller affirmatively directs his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within forty-eight (48) hours.

*(Adopted 11/08)*

**Failure to comply with the provisions of Section 19 is \$500.00**

**Failure to correct within 14 days from notice may result in suspension of data feed**

# **Additional Policy Provisions of the Rules and Regulations of the Staten Island Multiple Listing Service, Inc.**

## **Policy Provisions Related to Section 1. Listing Procedures**

**Policy 1.02. Submission of Documents to the SIMLS.** The participant shall deliver to the service facsimile copies of the listing contract, property data form, change forms and any other documents as required by these rules. Forms that are broker-loaded, but are required to be sent to the MLS, must be received by the MLS in facsimile or hard copy form within 24 hours, or one business day of the broker load.

**The fine for violation of Policy 1.02 is \$200.00.**

**Policy 1.03 Exempted Data.** In the event that the seller refuses to allow his name and telephone number to be published in the SIMLS, a separately written letter in the handwriting of the seller must state this request. This letter must be submitted to the SIMLS with a processing fee as determined by the SIMLS Board of Directors.

**Policy 1.04 Restricted Access to Data.** Access to the Seller's phone number and the Listing Expiration date will be limited to the Listing Participant or the Participant's authorized subscribers and assistants, and in the case of Seller's phone number to the Broker-On-Call for specified use.

**Policy 1.05 Photos on Listings.** Each listing must have a minimum of three (3) photos, links to virtual tours or videos, or sketches unless the seller(s) expressly direct that photographs of their property not appear in MLS compilations. However, a Land listing must have a minimum of one photo or sketch. The first photo or sketch must be of the outside front of the property and may not be a link. The other two photos or sketches must represent different views of the property from the first and from each other. Photos must be loaded on the MLS system within two (2) business days after the listing is submitted to the MLS. Sellers of properties listed in the MLS have the ability to direct that photographs or other graphic representations of the property be withheld from the MLS compilation. (NAR 7/30/13) **M**

**The fine for failure to comply with Policy 1.05 is \$250.00**

**Policy 1.06. Information in listing records limited.**

- (a) Fields designated by the SIMLS as public remarks fields and web sites that can be reached by links from listing records may contain only descriptions of the physical traits of the listed properties and their vicinities. Inclusion of participant or subscriber promotional messages or contact information, including phone numbers, email addresses, and web site addresses, is expressly prohibited.

- (b) Photographic images and sketches submitted on listing records may contain only depictions of the listed property and its vicinity. Photos uploaded to listings shall only contain photos pertaining to that specific property listing. Inclusion of marketing and promotional messages on behalf of participant, subscriber, or seller is expressly prohibited. For Sale signs in images are prohibited.
- (c) Virtual Tours: The Virtual Tour shall only contain a URL link directly to the Virtual Tour for that specific property listing. No company or agent branding is allowed on the photo or on associated verbiage. No other information is authorized e.g. no links, advertisements, or personal/company promotions.
- (d) Photos and/or Virtual Tours and/or Videos may **not** contain images of persons.

**The fine for violation of Policy 1.06 is \$1,000.00.**

**EACH Repeat Offense INCREASES by: \$1,000.00; MAXIMUM: \$5,000.00**

**Policy 1.07. Listing contract form.** The SIMLS does not require a participant to use a listing contract form other than the form the participant individually chooses to use. The SIMLS reserves the right, however, to reject a listing if in the judgment of the SIMLS's legal counsel the listing contract fails to adequately protect the interests of the public and the other participants, or the listing contract appears or purports to establish, directly or indirectly, any contractual relationship between the SIMLS and the seller. SIMLS reserves the right to charge a fee for counsel review of listing agreements.

**Policy 1.08. Auction listings.** A listing broker may not submit a listing if that listing is subject to auction, even if it is otherwise an eligible listing type.

**Policy 1.10. Joint listings.** If two or more participants are jointly listing broker on a single listing contract, they must select from among them one to submit the listing to the SIMLS. The listing contract may not be submitted to the SIMLS by more than one listing broker. The listing submitted must identify any other listing broker participants. The listing participant must submit a copy of the listing contract, naming all co-listing brokerages to the SIMLS.

**Policy 1.11. Required listing elements.** The listing broker must collect all data for a listing to be submitted on the appropriate property data form approved by the SIMLS. The data collected on the property data form must be complete and accurate in every ascertainable detail. The listing broker must obtain the seller's signature on any disclosures and acknowledgements that appear on the property data form, including seller's acknowledgement that the listing broker must provide timely notice of status changes and sales information (including selling price) to the SIMLS. The listing broker shall include the following elements on the Property Data Form and/or Listing Contract, signed by the seller for each listing:

- a. The full gross listing price stated in the listing contract.

- b. The compensation the listing broker is offering to other participants for their services in the sale/rental/exchange of the listing in compliance with Article IV relating to commissions.
- c. Any contingency, restriction, limitation or special conditions of any term in the listing.
- d. Disclosure that there are named excluded prospects in the listing contract. (Names of excluded prospects are not to be disclosed in the listing record. Potential cooperating brokers should contact the listing broker directly for the identities of named excluded prospects.)
- e. Any or all showing information applicable to potential cooperating brokers including but not limited to showing availability restrictions, instructions for scheduling appointments, the use of a lock-box or necessity of a key pickup and/or the necessity for a listing participants' licensee or representative to be present at showings and available times that said licensee or representative is available for showings. For the convenience of its subscribers the service provides a vendor, ShowingTime Showing Service (STSS), who provides communications between listing brokers and cooperating brokers. All listings will provide the STSS local phone number as the official appointment scheduling phone number and all showing instructions will be reported to STSC.
- f. Authorization or Prohibition from the seller for Internet Marketing.
- g. Agreement by the owner to "indemnify and hold harmless the Broker, and any cooperating brokers, from any claim arising out of personal injuries to a tenant or any other persons injured in or on the property, and/or loss or damage to personal property."

**The fine for violation of Policy 1.11 is \$250.00.**

**Policy 1.12. Listings of multiple unit properties.** If part of a listed property is sold or rented, the listing shall be considered cancelled and the remainder of the property must be re-listed. In the case of new construction of residential developments, each model shall be listed separately, indicating the number of sites available for each style. Sales of units in new construction developments must be reported separately and the availability of remaining units must be clearly identified. The Service may implement a policy for a reduced fee schedule for said unit listings subsequent to the first in a development.

**The fine for violation of Policy 1.12 is \$500.00 p/unit.**

**Policy 1.13. Duplicate listings.** When a property satisfies the definition for more than one eligible property type, the listing broker may (but need not) submit the listing in each appropriate property type, provided that each listing record is complete and accurate in itself and each is cross-referenced by listing number with any other listing of the same property. If the property is removed from an active status, the listing broker must submit the status change on each listing. When sale is closed, broker must report the sale on one listing and withdraw any other listing records.

**The fine for violation of Policy 1.13 is \$250.00.**

**Policy 1.14. Properties that cannot be Shown until a Specific Date.** If the seller cannot show or does not want the property to be shown over a five (5) day period or less, the listing is left active and a note is put in the remarks stating “cannot be shown until mm/dd/yy”. Date property will be available for showing must be specified. If the property is not to be shown for a period longer than five (5) days, it is considered “Temporary Off Market” and this status change must be input in the MLS System. If a Property is not available for in person showings or **Virtual Showings\*** (a live feed where the buyer is on the call and can direct the person handling the camera and can ask questions) **for more than** the next **five (5) days**, it must be moved to “Temporarily Off Market” status.

New Listings, that are not available to show, will be entered as “Coming Soon” indicating a date when the property will be available to show up to 30 days from Listing Date. On that date the listing will convert to Active Status. See Policy 1.3, below.

**The fine for violation of Policy 1.14 is \$1,000.00.**

**Policy 1.15. Maintenance of and access to documentation.** The listing broker must maintain in its files the listing contract, any amendments to the listing contract, the property data form, and all other documents necessary to verify the participant’s compliance with these rules for each listing submitted to the SIMLS. The participant shall maintain these files for not less than one year, or longer where required by law, after the expiration or sale of each listing, whichever is later. The participant shall deliver these records or copies of them to the SIMLS within three days of the SIMLS’s request for them.

**Policy 1.16. SIMLS’s right to remove listings that violate rules.** The SIMLS reserves the right to remove listing records that violate these rules or applicable law in the sole judgment of the SIMLS. Participants may not accept instructions from listed sellers that violate SIMLS Rules and Regulations or are unlawful.

**Policy 1.17. Lead Disclosure Form.** Listing Participants must upload the Lead Disclosure Form for properties built before 1978 to the MLS system. However, sellers of properties listed in the MLS have the ability to direct that submission of Lead Disclosure Forms be withheld from the MLS compilation. (7/30/13) **M**

**Policy 1.18. Days on Market (DOM)/Continuous Days on Market (CDOM).** DOM is calculated as the number of days a listing exists in either the Active or Acceptance status. CDOM is calculated as the number of days a property is listed in the Active or Acceptance status. If a property is released or expires and is relisted, prior to being sold to a new owner, within thirty (30) days, the CDOM of the new listing is added to the CDOM of the prior listing.

**Policy 1.2. Authorized Signatures.** The listing broker is required to obtain the seller's signed authorization or, in the absence of that, written authorization by email or text message that matches back to the seller's email address and phone number recorded on their listing) on all seller documents related to the transaction, including but not limited to status change forms (when Seller's signature is required). **The submission of improperly signed seller documents will be subject to a \$1,000.00 fine and a requirement to take an Ethics Class.** A second offense, within a year, will be forwarded to the Grievance Committee for ethics enforcement. (06/2012)

**Policy 1.3. Coming Soon Listings:** A "Coming Soon" listing is an Exclusive Right to Sell (ER) listing that is entered into the MLS and includes a date that the listing will become active (Anywhere from the day after the list date to thirty (30) days after the list date. (The List Date is the date the listing is signed). Only New Listings, No Status Changes: Listings can only enter the Coming Soon status as new listings and cannot be changed from Active or any other status to Coming Soon.

DOM: Days on Market is not calculated on Coming Soon listings and DOM only starts when a listing becomes Active.

The Listing Agreement, in paragraph 2 (Price and Terms of Sale) must include a clause that says "Property not to go live on SIMLS until xx/yy/zzzz due to (indicate the reason such as repairs, staging, photography, etc.)" The listing will automatically go "Active" on the date specified.

The Coming Soon listing will be accessible to all SIMLS subscribers but may not be marketed to the public in any printed or online media. Under no circumstances can the property be shown to any licensee, including in-house agents, during the "Coming Soon" period.

Since all SIMLS agents will be aware of the listing, appointments can be made through ShowingTime for a showing after the Coming Soon end date.

## **Policy Provisions Related to Section 2. Selling Procedures.**

**Policy 2.02. Compliance with CDC and NYS DOH Guidelines.** All agents conducting in-person showings or open houses are required to take the necessary safety precautions in compliance with CDC & NYS DOH mandated guidelines (i.e. cleaning/disinfection, wearing face coverings, social distancing, etc.) before *and* after *each* showing or open house.

**The fine for failure to comply is \$2,000.00 (Adopted 7.14.20 by SIMLS BOD)**

**Policy 2.03. Showings.** For the convenience of its subscribers the service provides an optional service for listing brokers, through the vendor ShowingTime Showing Service (STSS), who provides communications between listing brokers, sellers and cooperating brokers. All listings, utilizing the service, will provide the STSS local phone number as the official appointment scheduling phone number. (7/30/13 M)

Recommended Procedure: In order to create an orderly environment, listing participants are requested to respond to all queries from cooperating brokers, through ShowingTime Showing Service (STSS), for showing appointments within two (2) hours during the hours of 9AM until 9PM, Monday through Friday and 9AM until 5PM, Saturday and Sunday, excluding legal holidays. Queries received by the listing participant after 7 PM Monday through Friday and after 3PM Saturday and Sunday can be answered the following day in the AM hours provided it is not a legal holiday.

**Policy 2.03. Broker-on-call.** The Listing Participant's office is responsible for insuring reasonable, constant and flexible access to the seller for the showing of property and the presentation of offers.

- a. In the event a Selling Participant cannot contact the Listing Participant or a licensed associate of the Listing Participant, and the Selling Participant has a qualified purchaser and/or a bona fide sales offer, then, and in such event, he may contact the Broker-on-call or a SIMLS director (hereafter referred to as Broker-on-call), or if the Broker-on-call is unavailable, any SIMLS Director. The Broker-on-call shall verify the unavailability of the Listing Participant or his licensed associate and then contact the seller to ascertain whether any other offers have been submitted and accepted. If there are none, the Broker-on-call must ascertain whether the seller is willing to show and/or have an offer submitted directly by the Selling Broker. If the seller agrees, the Broker-on-call shall inform the seller of the name, agency status and telephone number of the Selling Agent and Broker. No contact with the seller is to be made by the cooperating broker unless initiated by the seller.
- b. When the Selling Broker believes that the Listing Broker is not making arrangements to present the written offer as quickly as possible, he may contact the Broker-on-call or any member of the SIMLS Board of Directors, and request the Broker-on-call to contact the Listing Broker to determine whether the Listing Broker is making arrangements to present the offer expeditiously.
- c. If, in the judgment of the Broker-on-call the Listing Broker is not acting as expeditiously as possible, the Broker-on-call should advise the Listing Broker that he will contact the seller directly and advise the seller that there is an offer pending on his property. The Broker-on-call shall ascertain whether any other offers have been submitted and shall also determine if the seller would like the offer presented expeditiously. If the seller wants the offer presented, the Broker-on-call will advise the seller to contact the Listing Broker so that the Listing Broker may be present to handle the presentation, if the Listing Broker so desires, and shall inform the seller of the name, agency status and telephone number of the Selling Agent and Broker to enable the Seller to make an appointment for the presentation. The Broker-on-call will advise the Listing Broker of what has transpired. If the Listing Broker is at the seller's property

when the offer is being presented, the Listing Broker will present the offer. If not, the Selling Broker will present the offer.

- d. It is an obligation of membership in the SIMLS for all participants to respectfully submit to all queries from the Broker-on-call or any director or member of the board of governors acting in the capacity of the Broker-on-call. Any participant who refuses to submit to the authority of the Broker-on-call or who subjects said broker-on-call to verbal abuse is in violation of these rules and regulations and will be subject to an administrative hearing by the board of governors upon notification to the SIMLS administration by said broker-on-call. The result of said hearing can involve fines or suspension. Repeated violations of the above may result in expulsion from the SIMLS.

**The fine for non-cooperation with the Broker-On-Call is \$500.00.**

**The fine for frivolous use of the Broker-on-call is \$500.00.**

**Policy 2.04. Offer Acknowledgement Form.** The availability of the offer acknowledgement form does not serve to and cannot be used by the listing broker to preclude the cooperating broker's right to choose to be present at the presentation of his offer. The Offer Acknowledgement Form shall be an official form of the SIMLS.

- a. Whenever a Cooperating Broker desires assurance that an offer procured by them has in fact been presented to the seller, said Cooperating Broker may complete an Offer Acknowledgement Form to be submitted to the seller by the Listing Broker and acknowledged by the seller and returned to the cooperating broker. The Listing Broker may sign on behalf of corporate-owned REO property.
- b. The Cooperating Broker shall submit said form to the Listing Broker who shall deliver the form to the seller. The Listing Broker shall request the seller to sign and Listing Broker shall return the signed form to the Cooperating Broker.
- c. If the seller fails or refuses to sign and return the Offer Acknowledgement Form within 24 hours from the date and time listing broker indicated that the offer was to be presented, the Broker-on-call may, upon request by cooperating broker, contact the seller for the purpose of verifying that in fact they have received and reviewed the Cooperating Broker's offer.

**The fine for a listing broker failing to provide a cooperating broker with a completed and signed offer acknowledgement form is:**

**24 Hours: \$2,500.00; 48 Hours: \$3,500.00; AFTER 48 Hours: \$5,000.00.**



**Policy 2.05. Delivery and Verification of Binders (Acceptance of Offer to purchase/Binder).**

a. If the Listing Participant, or his authorized salesperson, is not already in possession of the written binder when an offer to purchase has been accepted by the seller either verbally, electronically or in writing, the Selling Participant must deliver a written copy of said offer to purchase immediately to the Listing Participant's agent, representative or office in person or electronically. A Selling Participant is entitled to a receipt noting the date and time of such delivery and an original copy of the signed acceptance if said signature is obtained post verbal or electronic acceptance. All verbal acceptances must be documented in writing within 48 hours unless verifiable circumstances beyond the control of the listing participant exist.

b. When a Listing Participant receives a binder from the Selling Participant, the Listing Participant will verify the acceptance of the binder with the person(s) authorized to sell the property, secure said binder in an envelope and sign the envelope containing said binder setting forth the date and time of receipt. If the person(s) authorized to sell the property is not available or unable to be contacted at the time of delivery of said binder, then the Listing Participant can sign the same as unverified and must make arrangements to verify said acceptance as soon as possible.

c. If a binder is unverified and another Broker questions the acceptance, said Broker can request that the Listing Participant verify the binder and the Listing Participant shall do so. However, the broker questioning the acceptance is not entitled to information relating to the terms of the acceptance. Said broker can only demand verbal verification of the offer by the Listing Participant and/or the Broker-on-Call.

**The fine for each violation of Policy 2.05 is \$100.00.**

**Policy 2.07. Physical access to properties strictly limited.** No participant, subscriber or other user shall provide to any person, whether intentionally or through negligence a means of access for that person to enter a property listed in the SIMLS unless the listing broker, or a subscriber or other user affiliated with the listing broker, has given specific permission for such access.

**The fine for a violation of Policy 2.07 is \$2,000.00**

**Policy 2.08. Damages Reported.** If, upon showing a property, a participant or subscriber finds that the property's key is missing from a lock box or that the property is unlocked or damaged, the participant or subscriber shall notify the listing broker, or one of its subscribers or staff, immediately.

**Policy 2.09. Keys Returned.** Keys obtained by the cooperating broker from the listing broker must be returned *within* five (5) hours to the listing broker unless other arrangements are made in advance.

**The fine for violation of section 2.09 is \$200.00.**

**Section 2.10. Optional reporting of sales of unlisted properties.** A participant who has participated in the sale of unlisted property may report the sale to the SIMLS for inclusion in its listing compilation by completing a property data form and submitting it to the SIMLS along with certification of the settlement date, and price.

**Policy Provisions Related to Section 13. Use of MLS Information.**

Policy 13.01. Control over web sites. A participant must exercise control over any web site belonging to the participant and subscriber affiliated with the participant, if the web site displays listing records from the SIMLS.

Policy 13.02. Access to comparable and statistical information. Staten Island Board of Realtors<sup>®</sup>, Inc. members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the SIMLS, are nonetheless entitled to receive by lease all information other than active listing information that the SIMLS generates, wholly or in part. This includes “comparable” information, “sold” information, and statistical reports. Staten Island Board of Realtors<sup>®</sup> members who receive this information are subject to these rules and are required to pay to the SIMLS the rental and other fees the SIMLS establishes for such information.

**Policy 13.03. Advertising. A participant must comply with NYS DOS advertising guidelines, Section 175.25 d. (6).**

Advertisements referencing property not listed with broker. [Any advertisement that references or includes information about a property that is not listed with the advertising broker or was not sold by the advertising broker shall prominently display the following disclaimer: “This advertisement does not suggest that the broker has a listing in this property or properties or that any property is currently available.” Such advertisement:

**(i) shall not suggest, directly or indirectly, that the advertising broker was involved in the transaction; and**

**(ii) shall not refer to property currently listed with another broker absent consent provided pursuant to subparagraph (b)(2)(ii) of this section.]**

(i) No real estate broker, associate real estate broker, or real estate salesperson shall advertise in any manner or make reference to in any advertisement property that is subject to an exclusive listing agreement of another broker, without authorization from the exclusive listing broker. Such

advertisements must clearly and conspicuously disclose the name of the exclusive listing broker immediately after one of the following phrases: “Listing Provided by [insert name of the exclusive listing broker]”, “Listing by [insert name of exclusive listing broker]”, “Listing Broker Contact [insert name of exclusive listing broker]”, “Listing of [insert name of exclusive listing broker]”, “Listing Provided Courtesy of [insert name of exclusive listing broker]”, “Listing Courtesy of [insert name of exclusive listing broker]”, or “Listing Agent Contact [insert name of exclusive listing broker]”.

(ii) Any real estate broker, associate real estate broker, or real estate salesperson that pays a third-party for advertising involving a property that is subject to an exclusive listing agreement of another broker must, in addition to the requirements in subparagraph (i), include in any advertisement that provides the advertising broker’s name words to disclose that the advertisement is a paid advertisement, using at a minimum the word “advertisement” immediately following the real estate broker, associate real estate broker, or real estate salesperson’s name.

**Failure to Comply with Policy 13.03 - \$1,500.00**

**The Rules Committee has the right to modify specific fines for repeated violations of the stated rules.**