

National Association of REALTORS®

&

Incline Village Board of REALTORS®

**MULTIPLE LISTING SERVICE
RULES & REGULATIONS**

Effective FEBRUARY, 2011

**INCLINE VILLAGE BOARD OF REALTORS®
MULTIPLE LISTING SERVICE (MLS)
RULES AND REGULATIONS**

APPROVED:

MLS Committee: 2/3/2011
Designated REALTORS®: 12/9/2010
Board of Directors: 2/15/2011
Mandatory NAR Changes: 8/2008, 2/2009, 5/2009

RULES AND REGULATIONS INDEX

Preamble

- Section I - Purpose and Participation
- Section II - Application, Membership Fees & Dues
- Section III - MLS Committee
- Section IV - Listing Procedures
- Section V - Selling Procedures
- Section VI - Prohibitions
- Section VII - Commissions
- Section VIII - Service Charges and Fees
- Section IX - Administrative Penalties/Reinstatement
- Section X - Non-Complying Services Assessment Fees
- Section XI - Enforcement of Rules or Disputes
- Section XII - Changes in Rules and Regulations
- Section XIII - Publication & Information
- Section XIV - Electronic Lock Box System
- Section XV - Ownership and Use of MLS Compilations and Copyrights
- Section XVI - Use of MLS Information
- Section XVII - Internet Data Exchange (IDX)
- Section XVIII - Virtual Office Website Policy (VOW) NAR Mandatory

PREAMBLE

Participants of the Multiple Listing service have a valuable interest in the business of real estate in the Incline Village/Crystal Bay area of Nevada. They believe that their success in selling the properties of their principals and the success of the Service will be in direct proportion to the integrity, sincerity and the helpfulness of each member. Cooperation between members and between members and non-members on real estate transactions is envisioned as the best possible diligent effort to expose a property in Incline Village/Crystal Bay to the real estate market.

SECTION I - PURPOSE AND PARTICIPATION

- A. **AUTHORITY.** The Board of REALTORS® shall maintain for the use of its Members an MLS which shall be subject to the Bylaws of the Board of REALTORS® and such rules and regulations as may be hereinafter adopted.
- B. **PURPOSE.** A Multiple Listing Service is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).
- C. **PARTICIPATION.** Any REALTOR® Member of this or any other Board or Association of REALTORS® who is a principal, partner, or corporate officer, or branch manager acting on behalf of the principal, without further qualification, except as otherwise stipulated in our Bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof, and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS "membership" or "participation" unless they hold a current, valid Nevada real estate broker's license and are capable of offering and accepting compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board MLS is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by a Board MLS where access to such information is prohibited by law.
- D. **SUBSCRIBERS OR USERS.** Subscribers (or Users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant's licensed designee.
- E. **VOTING REALTOR®-PARTICIPANTS.** Voting REALTOR®-Participants in good standing may have one (1) vote. The REALTOR®-PARTICIPANT may designate a voting representative who is a member of the Incline Village Board of REALTORS® by written proxy in a form designated by the Board.

SECTION II – APPLICATION, MEMBERSHIP FEES & DUES

- A. **APPLICATION FEE.** There shall be an application fee of \$450.00 to be paid by each REALTOR®-PARTICIPANT. Each subscriber shall pay an application fee of \$250.

Subscribers from other cooperating Nevada boards shall pay an application fee of \$100 for MLS-only subscriptions, after their REALTOR®-PARTICIPANT has paid the \$450 fee.

- B. **TRANSFER FEE.** There shall be a \$50.00 transfer fee due upon transfer of membership as outlined in Section IC.
- C. **REINSTATEMENT FEE: REALTOR® PARTICIPANTS. REALTOR®-PARTICIPANTS** who inactivate their MLS participation, may re-apply in the manner of a new applicant upon payment of any dues, fees, and charges left outstanding at the time of termination of MLS participation, and a \$125.00 reinstatement fee. If you have been gone 0 – 1 year, there is no fee. If you have been gone from 1 – 5 years the \$125 Reinstatement fee applies. If you have been away over 5 years, you must fully re-join the MLS with all of the pertinent fees and costs.
- D. **LISTING FEES:** The following listing fees apply per listing:
 - 1) Broker-loaded listings.....\$25
 - 2) Board office loaded listing – Member..... \$50

SECTION III - MLS COMMITTEE

A. APPOINTMENT OF COMMITTEE.

- 1) The MLS Committee shall consist of nine (9) members who shall come from various offices. The Chairman of the MLS Committee must be a REALTOR® actively engaged in listing and selling real estate and shall be elected by the REALTOR®-PARTICIPANTS of the Multiple Listing Service at their annual meeting and will serve a term of one (1) year.
- 2) The MLS Committee of the Incline Village Board of REALTORS® shall appoint, with the approval of the REALTOR®-PARTICIPANTS, the remaining eight (8) members of the committee, each of whom shall serve a term of one (1) year. Five (5) of the members of the committee shall be REALTOR®-PARTICIPANTS and four (4) members of the committee shall be REALTORS® associated with a REALTOR®- PARTICIPANT.
- 3) All members of the committee shall serve a term of one (1) year. Appointment of the MLS Committee shall become effective as stated in the Incline Village Board of REALTORS® Bylaws, Article XIV, Section 2, "Elective Year". A written notice shall be sent to each appointee, giving notice of the appointment and the responsibilities of the position to be assumed, within ten (10) days of the date of the appointment.

B. DUTIES. The Committee shall have complete authority in the management of the MLS and the administration of the Rules and Regulations as herein contained, subject to the approval of the Board of Directors of the Incline Village Board of REALTORS®. Amendments to the rules and regulations of the Service shall be by a simple majority vote of the members of the Multiple Listing Service Committee, subject to the approval by the Board of Directors of the Incline Village Board of REALTORS®. Such duties shall include the following:

- 1) Maintain the Offer & Acceptance (O&A) form and Listing Agreement, and make recommendations for amendments thereto to the REALTOR®-PARTICIPANTS and Board of Directors.

Changes affected under this section shall be communicated to the membership as soon as practical via the following media:

- 1) Announcements at weekly MLS members meetings
- 2) Electronic media (e.g., email, MLS News, Web Page)
- 3) REALTOR®-PARTICIPANT'S office meetings

It is the REALTOR®-PARTICIPANT'S responsibility to communicate all changes affected under this section to his members and staff.

SECTION IV - LISTING PROCEDURES

A. **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 an "Exclusive Authorization to Sell" form shall be delivered to the Multiple Listing Service within 72 hours after all necessary signatures of seller(s) have been obtained:

1. Single family homes for sale or exchange.
2. Multi-family residential buildings for sale or exchange.
3. PUD (Planned Unit Development) for sale or exchange.
4. Vacant lot or land for sale or exchange.
5. Commercial property for sale or exchange.
6. Business opportunity for sale or exchange.
7. Investment property for sale or exchange.
8. Tenants In Common (TIC) for sale or exchange
9. Disallowed/Non Acceptable Listings: Timeshare Listings are NOT allowed.

B. The following listings are acceptable to the Service

Exclusive-Right to Sell
Exclusive-Right to Sell with Exception (Name Prospects Exempted)
Exclusive Agency Listings

as long as they are clearly identified in the MLS. The MLS shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service. All acceptable listings of property located within the jurisdiction of the Board must be input into the MLS system within 72 hours of receipt by the Listing Broker. The Service reserves the right to refuse to accept an MLS listing which fails to adequately protect the interest of the public and the Participants.

The Service reserves the right, through its legal counsel, to refuse to accept a listing which fails to adequately protect the interest of the public and the Participants, and:

- 1) Assure that no listing input into 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, buyer agents, or both. The listing agreement must include the seller's authorization to submit the listing to the Multiple Listing Service.
- 2) The Service may not accept net listings because they are deemed unethical and, in most states, are 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. 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. The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral basis, but also reserves to the seller the general right to sell the property on a 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.

- 3) A Multiple Listing Service does not regulate the type of listings its members take. This does not mean that a Multiple Listing Service must accept open listings and net listings, (except where acceptance is required by law) 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.

C. **LISTING PRICE SPECIFIED.** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

D. **LISTINGS.** Listings submitted by the Participant of the Service shall be signed by the REALTOR®-PARTICIPANT or his/her authorized representative, as having been checked for completeness and accuracy and that he/she has an enforceable written agreement with all of the owners of the real property, the subject of the listing, which authorizes the submission of the listing to the Incline Village Board of REALTORS® Multiple Listing Service to publish the information as set forth in the LISTING. The certification to also include that the REALTOR®-PARTICIPANT agrees to indemnify and hold harmless the Incline Village Board of REALTORS® Multiple Listing Service against any claim or liability for publishing the information as set forth in the LISTING. LISTINGS without the REALTOR®-PARTICIPANT'S signed certification will not be allowed.

E. **LISTING INFORMATION.** Listing Information which is filed with the Service shall be complete in every detail, which is ascertainable as specified on the MLS LISTING. The MLS LISTING is to include the statement: "Square Footage or Acreage information quoted is approximated as per Assessor, Appraiser, Microfiche, Tax Records, or other official source. Specify ("If square footage is a criteria of buyer(s) decision to buy, buyer may not rely on this information and buyer must verify"). The only optional information will be owner's name and telephone number and tenant's name and telephone number. Terms shall be specified on all listings. A lot sketch must accompany lot listings to be published on the MLS. The placement of listings must be in the proper section of the MLS. The criteria for Condominiums, Town Houses or Planned Unit Development (PUD) will be determined by zoning and the existence of a Homeowner's Association.

- 1) LISTING PRICE SPECIFIED. The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.
- 2) CONTINGENCIES APPLICABLE TO LISTINGS. Any contingency or condition of any term in a listing shall be specified and noticed to the Participants.
- 3) All images and remarks used for MLS must apply to listed property and may not display branded script, branded text, people, animals, phone numbers, email addresses, branded virtual tours, websites, links, agent or buyer incentives or solicitations of other services. "Branded" means it would include pictures, names, phone numbers, emails of or links back to the listing agent and which are not acceptable. Images taken from the listed property may be displayed. You may not use a "telephoto" lens shot of any "view" from the property, as the photos must be accurate "views" from the property. If a property is under construction, an architect's rendering may be displayed; or if it is a condominium, an image of the complex's entryway is acceptable. If "Amenity" photos are added to a listing in the MLS, they must be individually labeled in legible type on the photo with the wording either "Community Amenities" or "Complex/Association Amenities".

First violation: \$50 fine

Second/subsequent violation: \$50 per day fine until corrected.

- 4) All Virtual Tours MUST be Unbranded. Branded Virtual Tours (i.e. including specific listing agent or office information or links thereof) are NOT allowed.

First violation: \$50 fine.

Second/subsequent violation: \$50 per day fine until corrected.

- F. Any changes in listing price, terms, financing, possession, commission, withdrawal, renewal, extension or cancellation may be made by the REALTOR®-PARTICIPANT, or his authorized representative, that the owner(s) has/have authorized the change or changes reflected in the MLS, and that written authorization has been obtained from the owner(s) and is on file in his/her office. Information is to be input into the MLS within 72 hours of receipt by Listing Broker.

G. EXPIRATION OF LISTINGS:

1) Listings filed with the Multiple Listing Service with a status of Active, Contingent, Release Clause, Under Contract, or Pending will automatically be removed from the compilation of current listings on the expiration date specified in the listing agreement unless, prior to that date, the MLS receives notice that the listing has been extended or renewed by the Seller. Prior to any extension or renewal of a listing agreement by the REALTOR-PARTICIPANT®, the REALTOR-PARTICIPANT® shall have on file a written agreement from the Seller authorizing the extension or renewal of the listing agreement. If a question arises as to the REALTOR-PARTICIPANT'S® authority to extend or renew a listing, the MLS may request a copy of the written authorization and the REALTOR-PARTICIPANT® shall be obligated to furnish a copy of the written authorization within 72 hours of such request by the MLS. Any extension or renewal of a listing agreement shall be input into the MLS within 72 hours of receipt of such extension or renewal from the Seller.

2) If notice of extension or renewal of the listing filed with the MLS is received after the listing has expired and been removed from the compilation of current listings, the REALTOR-PARTICIPANT® exclusively may extend or renew the listing with the MLS. Other terms and conditions of Section G (1) shall also apply to this section.

- H. 1) Listed property may be withdrawn from the Service or cancelled by the Listing Broker before the expiration date of the listing agreement provided notice is filed with the Service, including a certification signed by the REALTOR®-PARTICIPANT or his/her authorized representative that the owner(s) has/have authorized the withdrawal or cancellation in writing and it is on file in his/her office. Information is to be input into the MLS Service within 72 hours of receipt by Listing Broker.
- 2) Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller can document that his exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the seller.

I. Listings deemed unenforceable by Board Counsel will not be published by the Service.

J. **JURISDICTION.** Only listings of the designated types of property located within the jurisdiction of the Board of REALTORS® are required to be submitted to the Service. Listings of property located outside the Board's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

K. **LISTINGS OF SUSPENDED PARTICIPANTS.** When a Participant of the Service is suspended from the MLS for failing to abide by the membership duties (i.e., violation of the Code of Ethics, Board 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 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 Board or MLS for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of the 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.

L. LISTINGS OF EXPELLED PARTICIPANTS. When a Participant of the Service is expelled from the MLS for failing to abide by the membership duties (i.e., violation of the Code of Ethics, Board 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 shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the Board or MLS for failure to pay appropriate dues, fees, or charges, a Board 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 listing from the MLS, the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his clients.

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

SECTION V - SELLING PROCEDURES

- A. Negotiations with the Seller for the showing and/or the purchase of listed property filed with the Multiple Listing Service shall be conducted through the Listing Broker except under the following circumstances:
- 1) The Listing Broker gives cooperating Brokers (either buyer agents or both) specific authority to show and/or negotiate directly in the "Remarks" portion of the Property Multiple Listing Service information, or
 - 2) After reasonable effort, the cooperating Broker and/or buyer agents cannot contact the Listing Broker or his representative in which case the contract shall be presented by the Selling Agent in the presence of the MLS Committee Chairman or a member of the MLS Committee. However, the Listing Broker, at his option may preclude such direct negotiation by the cooperating Broker, cooperating agents, buyer agents, or both.
- B. RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER.** The cooperating Broker (buyer agent, or other), or his/her representative shall have the right to participate in the presentation by the Listing Broker to the seller or lessor of any offer he/she secures. The Listing Broker must make arrangements to present the offer as soon as possible, or give the cooperating Broker, cooperating agent or buyer's agent or other a satisfactory reason for not doing so. The cooperating Broker, cooperating agent or buyer's agent or other does not have the right to be present at any subsequent discussion or evaluation of that offer by the seller(s) 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 written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

- C. 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.

D. SALE OF PROPERTY.

- 1) **REPORTING SALES TO THE SERVICE.** Status changes, including final closing of sales, shall be reported to the Multiple Listing Service by the listing broker within 72 hours after they have occurred. If negotiations were carried on under Section V A (1) and (2) hereof, the cooperating broker shall report accepted offers to the listing broker within 72 hours after occurrence and the listing broker shall report them to the Multiple Listing Service within 72 hours after receiving notice from the cooperating broker.

Note: 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.

- 2) Upon the Close of Escrow of sold property said sale is to be reported to the MLS within 72 hours. In the event the sale is not reported within the designated time period, the Listing Broker in violation will be subject to a one hundred (\$100.00) dollar penalty. Subsequent violations of this section in the same calendar year will be subject to a one hundred (\$100.00) dollar penalty. If the penalty fee is not paid within seven (7) days from date of billing, MLS services will be suspended until payment is made, unless there is a specific agreement between Broker and Principal with specific instruction not to report selling price, sale price must be reported at close of escrow. Open escrows must be reported within 72 hours. If there is a contingency or any other reason there may be a problem with the Closing - you should report the Open escrow - with "Continue to Show".
- 3) **REPORTING RESOLUTIONS OF CONTINGENCIES.** The Listing Broker shall report to the Multiple Listing Service within 72 hours that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement cancelled.
- 4) **PENALTY ASSESSMENT.** A penalty assessment up to \$1,000 may be imposed upon any Participant responsible for allowing the MLS publication or information contained therein to come into the possession of any unauthorized person. See Section X.
- 5) **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.
- 6) **SUBMISSION OF 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.
- 7) **COOPERATING BROKER.** A Listing Broker shall protect Members by submitting all interested parties names to the Seller in accordance with the listing provisions of this Multiple Listing Service. Members should note that failure to comply with this practice

could place them in a vulnerable position should the property be sold within the grace period to a Client submitted through them by an MLS member under the provisions of the listing agreement between REALTOR® and Principal.

- 8) **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.

SECTION VI – PROHIBITIONS

- A. **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.
- B. **"FOR SALE" SIGNS.** Only the "For Sale" sign of the listing broker may be placed on a property.
- C. **"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.
- D. **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 1: This Section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This Section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

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 VII - COMMISSIONS

- A. The MLS expressly forbids any rules regarding the division of commission between members or non-members. It should be noted by the Participants that for their own protection it is good business practice to enter into commission negotiations between parties in advance of any real estate transactions and such agreement should be reduced to a written memo between parties and acknowledged by each. An MLS Participant is not restricted to transactions with members only and transactions with non-members should be conducted with the use of good business practices.
- B. Agreements with other Multiple Listing Services may be entered into by the members of this MLS, should it be deemed beneficial to the owners of the properties listed by The MLS members.
- C. **COMPENSATION SPECIFIED ON EACH LISTING.** The listing broker shall specify on each listing filed with 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.

Note 1. 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. An agent representing potential purchasers cannot assume that the offer of compensation to cooperating brokers also applies to buyer agents.

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

This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on his listings as published by the MLS, provided the listing broker informs the other broker in writing in advance of his producing 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.

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

The cooperating compensation specified on listings filed with the Multiple Listing Service shall appear in one of two forms. The essential and appropriate requirement by a Board Multiple Listing Service is that the information to be published shall clearly inform the Participants as to the compensation they will receive as agents in cooperative transactions unless advised otherwise by the listing broker in writing in advance. The compensation specified on the listings published by the MLS shall be shown in one of the following forms:

- (a) By showing a percentage of the gross selling price.
- (b) By showing a definite dollar amount.

Note 2. The Listing Broker may, from time to time, adjust the compensation being offered to other Multiple Listing Service Participants for their services as cooperating agents or the compensation offered to buyer agents with respect to any listing by advance published notice to the Service so that all Participants will be advised.

Note 3. The Multiple Listing Service shall make no rule on the division of commissions between Participants and Non-Participants. This should remain solely the responsibility of the Listing Broker.

Note 4. A Listing Broker who elects to offer compensation to buyer agents shall specify:

- (a) By showing a percentage of the gross selling price.
- (b) By showing a definite dollar amount

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.

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

Note 7. Participants must disclose potential short sales when reasonably known to the listing participants. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. See Note 6 above.

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

E. **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.

F. **PARTICIPANT AS PURCHASER.** If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant wishes to acquire an interest in property listed with

another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker.

SECTION VIII - SERVICE CHARGES AND FEES

- A. The REALTOR®-PARTICIPANT will be charged an equal amount, per quarter (presently \$250), times the number of licensed sales-persons, and licensed or certified appraisers who have 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. The amount of said fees is to be set by the MLS Committee and approved by a majority vote of the Participants present at any MLS meeting, provided the Participants have received notification of such meeting at least five (5) days prior to the meeting date.
- B. Sales-persons in a Participants office who do not wish to use the MLS Services shall sign a Waiver to that effect, stipulating their request falls within the following rules:
- 1) Living out of area - (Long Term - Minimum 6 months)
 - 2) Illness - (Long Term - Minimum 6 months)
 - 3) Licensee is engaged exclusively in a specialty of the Real Estate business other than listing, leasing, appraising, or selling real property and who does not AT ANY TIME have access to, nor use of the MLS information or MLS facility of the Board.
- The request for waivers is to be approved by the MLS Committee and the Board of Directors. There will be a \$100.00 penalty charged to any Participant whose sales-persons are found using the Service after having signed a waiver and been certified by the Participant as not using the Service. There will be a \$125.00 reinstatement fee for members returning to active MLS Status.
- C. All service charges and fees shall be payable in advance.
- D. All MLS fees, dues and charges, including, but not limited to initial participation fees, recurring participation fees, listing origination fees, subscription fees, etc., shall be the responsibility of the MLS PARTICIPANT.

SECTION IX - ADMINISTRATIVE PENALTIES/REINSTATEMENT

- A. If the Subscriber's (member's) MLS bill is not paid within thirty (30) days from billing date, services of the MLS are to be stopped. The non-paying Subscriber (member) shall be assessed a \$150 late fee, non-payment after 60 days the member may be terminated from board and/or MLS membership. Service may be resumed upon payment of billing. The REALTOR®-PARTICIPANT (owner, broker, or principal) makes application for MLS and other Board services and therefore is the ultimate party or entity responsible for the dues, fees, fines, or other assessments and therefore is the party or entity responsible for his or her office.
- B. If the Subscriber's (member's) bill is not paid within forty-five (45) days of billing date, the REALTOR®-PARTICIPANT membership (office service) will be suspended, providing written notice is sent to the REALTOR®-Participant and the Subscriber or User by certified mail, return receipt requested, at least seven (7) days prior to the suspension date. Participant may re-apply for MLS services in the manner prescribed for new applicant.
- C. **REINSTATEMENT.** A former member, Participant or subscriber who has had his/her membership or services terminated for non-payment of dues, fees, fines, or other assessments duly levied in accordance with the provisions of the Board's Bylaws or other Rules and Regulations of the Board or any of its services, departments, divisions or subsidiaries may apply for reinstatement in the manner prescribed for new applicants for membership, after making payment in full of all past due accounts due as of the date of

termination. All services shall be discontinued as of the date of **termination** without reference to any other provision of these rules and regulations.

SECTION X - NON-COMPLYING SERVICE ASSESSMENT FEES

- A. Failure to turn in listings, status changes, (e.g. Open Escrow Continue to show, Open Escrow, Withdrawal of Listing, and Closed Escrow) within 3 working days (72 hours).

1 st Offense	\$100.00
2 nd Offense	\$100.00
Subsequent Offense within same calendar year	Suspension of services and appearance before the MLS committee for possible further action

- B. Use of the MLS Service by a Sales Associate after receipt of a Waiver of MLS fees.

1 st Offense	\$100
Subsequent Offense within same calendar year	Suspension of services and appearance before the MLS Committee for possible further action

- C. Violation of MLS Confidential Material Penalty up to \$1,000.00

- D. Failure to provide within the 72 hours Board-requested MLS or contractual real estate documents specific to issues related to the Incline Village Board of REALTORS® that are monitored by the Board for the benefit of the members. \$200 per violation

- E. Personal contact images or remarks in listings. Use of "branded" instead of unbranded Virtual Tours. \$50.00/per day until corrected

- F. Listing input without at least one picture within 5 minutes of saving listing. \$50.00/per day until picture is input

- G. Amenity photos not labeled properly \$50.00/per day until corrected

SECTION XI - ENFORCEMENT OF RULES OR DISPUTES

- A. **WRITTEN COMPLAINTS.** The MLS Committee of the Incline Village Board of REALTORS® shall give consideration to all written complaints having to do with a violation of these Rules and Regulations.

- B. **PENALTY ENFORCEMENT.** The MLS Committee is responsible for the enforcement of the administrative penalties outlined in Section IX and X of the MLS Rules and Regulations.

- C. **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 Multiple Listing Service Committee, and if a violation is determined, the committee 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 committee's decision. If rather than conducting an administrative review, the Multiple Listing Committee has a procedure established to

conduct hearings, the decision of the Multiple Listing Committee may be appealed to the Board of Directors of the association of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the association's Grievance Committee 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®.

D. 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. probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- f. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- g. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years

E. COMPLAINTS OF UNETHICAL CONDUCT. All other complaints of unethical conduct shall be referred by the committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's Bylaws.

F. APPLICABILITY OF RULES TO SUBSCRIBERS OR USERS. Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the subscriber or user has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further failure of any subscriber or user to abide by the Rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

G. Where differences in these Rules and Regulations and the Board's Bylaws with regard to MLS matters may occur, the Board's Bylaws will prevail and the matter will be referred to the President-Elect for resolution.

SECTION XII - CHANGES IN RULES AND REGULATIONS

A. These Rules and Regulations may be amended by a 2/3 majority vote of the REALTOR®-PARTICIPANTS or their authorized representatives present at any MLS meeting provided the Participants have received notification of such meeting at least five (5) days prior to the meeting date.

B. All rules, changes and amendments must first be approved by the MLS Committee and the REALTOR®-PARTICIPANTS and submitted to the Board of Directors of the Incline Village Board of REALTORS® for final adoption.

SECTION XIII - PUBLICATION & INFORMATION

A. CONFIDENTIALITY OF MLS INFORMATION.

- 1) 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 authorized and qualified to act as cooperating agents of the listing broker or agents of prospective purchasers in the sale of property filed with the service and real estate licensees affiliated with such Participants and personal assistants under direct supervision of a qualified agent or Participant.
- 2) At joint meetings of the MLS and the Incline Village Board of REALTORS®, where Affiliate Members of the Board are present, they may attend the meetings and the MLS tours, but may do nothing that requires a real estate license or breaches the above mentioned confidentiality.
- 3) Secretaries and personal assistants in Participants offices may take flyers to and from the meetings, open and close open houses.
- 4) Visiting real estate agents from outside Incline Village and Crystal Bay may attend meetings and tours as guests of a participant.

B. MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION. The information published and disseminated by the service is communicated verbatim, without change by the service, as filed with the service by the Participant. The Service does not verify the 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.

C. ACCESS TO COMPARABLE AND STATISTICAL INFORMATION. Board members who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase, all information other than current listing information that is generated wholly or in part by the MLS, including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm, except as otherwise provided in these rules and regulations.

D. 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.

E. SOLICITATION OF LISTINGS 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 1 this section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particular standard of Practice 16-4. This section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

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 XIV - ELECTRONIC LOCK BOX AND KEYCARD SYSTEM

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor:

- A. **ELECTRONIC KEYCARDS AND LOCKBOXES.** The Electronic Keycard and Lockbox system is designated as an activity of our association-owned Multiple Listing Service. ***Every MLS Participant and every non-principal broker, sale licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.*** Electronic Keycards and lockboxes may be obtained and/or purchased from the Board Store at a price proposed by the MLS and approved by the Board of Directors. The Keycards (DisplayKeys) are presently leased by the MLS and do not require a deposit, but may be deactivated immediately in the event of termination of membership or other determining factor such as following an arrest and prior to their conviction for any felony or misdemeanor which, in the determination of the association or MLS, relates to the real estate business or which puts clients, customers, or other real estate professionals at risk.
- B. Any key, programmer, or other device (hereinafter referred to as key) by which a lock box can be opened shall be non-duplicative. By non-duplicative it is not meant that the key is necessarily covered by a current patent but that it cannot be readily copied in the manner that other types of keys ordinarily are.
- C. Electronic Keys must be obtained from the original manufacturer, from a recognized vendor of lock box systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, information shall be obtained from the original manufacturer to determine whether the key's pattern, code, or configuration is already in use by other associations, multiple listing services, or other users in the vicinity. Surrounding associations and multiple listing services shall also be contacted to determine whether the key's pattern, code, or configuration is currently in use.
- D. Lock boxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or in a separate document created specifically for the purpose. Inclusion in MLS compilations cannot be required as a condition of placing lock boxes on listed property.
- E. Associations shall charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the association. Upon receipt of notice, the association shall take any steps deemed necessary to re-secure the system.
- F. Associations shall adopt written, reasonable, and appropriate rules and procedures for administration of lock box systems which may include appropriate fines, not to exceed \$5,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association and set forth in the MLS Rules and Regulations herewith. All keyholders, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lock box system.

SECTION XV - OWNERSHIP AND USE OF MLS COMPILATIONS* & COPYRIGHTS

- A. By the act of submitting any property listing content to the Multiple Listing Service, the participant represents that he/she has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on "Comparables". Listing content includes, but is not limited to, photographs, images, graphics audio and video recordings, virtual

tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.

- B. All rights, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Incline Village Board of REALTORS®, and in the copyrights therein, shall at all times remain vested in the Incline Village Board of REALTORS®.

*The term M.L.S Compilation, as used in Sections A and B 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; computer data base, or any other format whatever.

**This section should not be construed to require the Participant to provide a copy of the MLS Compilation for any licensee affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing and selling real property, and who does not, at anytime, have access to nor use of the MLS information or MLS facility of the Board.

- C. **DISTRIBUTION.** Participants shall at all times maintain control over, and responsibility for, the information provided to them by the Incline Village Board of REALTORS® and its Multiple Listing Service, and shall not distribute any such information 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 a Board 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 by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

- D. **DISPLAY.** Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Data 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.

- E. **REPRODUCTION.** Participants or their affiliated licensees shall not reproduce any MLS Data or any portion thereof except in the following limited circumstances:

- 1) Participants or their affiliated licensees may reproduce from the MLS Data, and distribute to prospective purchasers, a reasonable* number of single copies of property listing data contained in the Multiple Listing Service which relate to any properties in which prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested. Such reproductions shall exclude the name of the seller and name of the tenant and telephone numbers of each, whether vacant or occupied and current loan information as published in the Multiple Listing Service.
- 2) 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.
- 3) 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.
- 4) 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, re-transmitted, or provided in any manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current "listing" information, "sold" information, "comparables" information, or "statistical" information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board owned Multiple Listing Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

*It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bonafide 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.

SECTION XVI - USE OF MLS INFORMATION

A. LIMITATION ON USE OF MLS INFORMATION.

- 1) Use of information from the MLS compilation of current listing information, from the Board's "Statistical Report", or from any "sold" or "comparable" report of the Board or MLS for public mass-media advertising by an MLS Participant or in other public representations may not be prohibited.
- 2) 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 Board 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 Incline Village Board of REALTORS® or its Multiple Listing Service for the period (date) through (date)".

SECTION XVII – INTERNET DATA EXCHANGE ("IDX")

- A. IDX Defined: IDX affords MLS Participants the option of authorizing display of their active listings on other Participants' Internet web sites.
- B. Authorization: Participants' consent for display of their active 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 or frame 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 as instructed by the seller.
 1. Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.
 2. Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.
 3. Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOW's) shall not be accessible via IDX sites. Notwithstanding this

- prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.
4. Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown", "downtown", etc.), list price, type of property, (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant.
 5. Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.
 6. Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provided, or make any portion of the MLS database available to any person or entity.
 7. When displaying listing content, a participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.
- C. 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 their listings by other Participants. This requirement can be met by maintaining an office or Internet presence from which Participants are available to represent real estate sellers or buyers (or both).
- D. Display: Display of listing information pursuant to IDX is subject to the following rules:
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.
 2. Participants shall not modify or manipulate information relating to other Participants' listings (This is not a limitation on site design but refers to changes to actual listing data.)
 3. All listings displayed pursuant to IDX shall identify the listing firm.
 4. All listings displayed pursuant to IDX shall identify the listing agent.
 5. All listings displayed pursuant to IDX shall show the MLS as the source of the information.
 6. Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing.
 7. The data consumers can retrieve or download in response to an inquiry shall be limited to 100 listings per search.
 8. The right to display other Participants' listing pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MLS.
 9. Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs.
 10. Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

SECTION XVIII – VIRTUAL OFFICE WEBSITES (VOW'S) MANDATORY NAR RULES

Section 18.1 (a): A Virtual Office Website ("VOW") is a Participant's Internet website, or a feature of a Participant's website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant's oversight, supervision, and accountability. A non-principal broker or 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 18 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 VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner ("AVP") on behalf of a Participant.

(c) "Affiliated VOW Partner" ("AVP") refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant's supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

(d) As used in Section 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 18.2 (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 18.3 (a): Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

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

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

(iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the

Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

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

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

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

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

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

(iii) That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;

(iv) That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant's consideration of the purchase or sale of an individual property;

(v) That the Registrant acknowledges the MLS's ownership of, and the validity of the MLS's copyright in, the MLS database.

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

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

Section 18.4: 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 18.5: A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

(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 18.6 (a): A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

(b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision:

Seller Opt-Out Form

1. Please check either Option a or Option b

a. I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.

OR

b. I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.

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

initials of seller

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

Section 18.7 (a): Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to 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 18.8: A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 18.9: A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

Section 18.10: Except as provided in these rules, the NATIONAL ASSOCIATION OF REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

Section 18.11: 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 18.12: 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 18.13: 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 18.14: 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.