

## RULES AND REGULATIONS FOR THE MULTIPLE LISTING SERVICE

of the NORTHWEST WYOMING BOARD OF REALTORS®

(Approved by NAR on November 22, 2017)

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### **Definitions and usage.**

These terms have the meanings given to them herein. Other terms may be defined elsewhere in these rules.

**“Board of REALTORS®”** means the Northwest Wyoming Board of REALTORS®, Inc.

**“Service” or “MLS”** means the multiple listing service of the Northwest Wyoming Board of REALTORS®, Inc.

**“Rules”** means these rules and regulations of the service.

**“Code of Ethics”** means the Code of Ethics of the National Association of REALTORS® including its Standards of Practice-

**“Jurisdiction”** means the territorial jurisdiction of the Northwest Wyoming Board of REALTORS® (which shall be known as all of Park and Big Horn Counties, Wyoming.). (Jurisdiction change effective July 30, 2008).

#### **“Participant”.**

Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word Participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. 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 Wyoming real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate Wyoming regulatory agency to engage in the appraisal of real property. 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. (Amended 11/08)

Mere possession of a Wyoming broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the

MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. (Adopted 11/08)

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)

Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. Additionally, the foregoing does not prohibit association multiple listing services, at their discretion, from categorizing Wyoming non-principal brokers, Wyoming sales licensees, Wyoming licensed, and certified appraisers and others affiliated with the MLS members or Participants as users or subscribers and, holding such individuals personally subject to the rules and regulations and any other governing provisions of the MLS and to discipline for violations thereof. MLSs may, as a matter of local determination, limit participatory rights to individual Wyoming principal brokers, or to their firms, and to Wyoming licensed or certified appraisers, who maintain an office or Internet presence from which they are available to represent real estate sellers, buyers, lessors or lessees or from which they provide appraisal services. (Amended 5/02)

Where the terms subscriber or user are used in connection with a multiple listing service owned or operated by an association of REALTORS®, they refer to Wyoming non-principal brokers, Wyoming sales licensees, and Wyoming licensed and certified real estate appraisers affiliated with an MLS Participant and may, as a matter of local option, also include a Participant's affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking Wyoming licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS Participant or the Participant's Wyoming licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the rules and regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the Participant's ultimate responsibility for ensuring compliance with the rules and regulations of the MLS by all individuals affiliated with the Participant. (Adopted 4/92)

Under the Board of Choice policy, MLS participatory rights shall be available to any REALTOR® (principal) or any firm comprised of REALTORS® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other Participants; and payment of any MLS dues, fees, and charges. Participatory rights granted under Board of Choice do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director, except as granted at the discretion of the local board and/or MLS. (Amended 5/97)

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to REALTOR® principals holding a valid Wyoming real estate license, or to firms comprised of REALTOR® principals holding valid Wyoming real estate licenses, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing REALTORS® not holding primary or secondary membership locally fees, dues, or charges that exceed those or, alternatively, that are less than those charged Participants holding such memberships locally or additional fees to offset actual expenses incurred in providing MLS services such as courier charges, long distance phone charges, etc., or for charging any Participant specific fees for optional additional services. (Amended 11/96)

None of the foregoing shall be construed as requiring an association to grant MLS participatory rights, under Board of Choice, where such rights have been previously terminated by action of that association's board of directors. (Adopted 11/95) M

- **Multiple Listing Policy Statement 7.23, Information Specified the Compensation on Each Listing File with a MLS of an Association of REALTORS®, revised as follows:**

In filing property with the multiple listing service, Participants make 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 by the listing broker to the other MLS Participants. This is necessary because cooperating Participants have the right to know what their compensation will be prior to commencing their efforts to sell. \* (Revised 11/04)

The listing broker retains the right to determine the amount of compensation offered to subagents, buyer agents, or to brokers acting in other agency or nonagency capacities, which may be the same or different. (Revised 11/96)

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 their submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 11/95)

While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional (except where MLS rules create specific exceptions as specified elsewhere in this policy statement), a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is

determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through 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)

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 multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The multiple listing service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

**Note 1:** The compensation specified on listings filed with the multiple listing service by the Participants of the service shall be expressed as a percentage of the gross sales price or as a definite dollar amount. Multiple listing services may, as a matter of local discretion, allow Participants to offer cooperative compensation as a percentage of the net sales price, with net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). The essential and appropriate requirement by a multiple listing service is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of their submitting an offer to purchase.

Multiple listing services shall not publish listings that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount, nor shall they include general invitations by listing brokers to other Participants to discuss terms and conditions of possible cooperative relationships. (Amended 5/10)

**Note 2:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval; and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Adopted 11/98)

**Note 3:** 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 must 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 or confidential “remarks” available only to Participants and subscribers

“**Subscriber**” means licensed salespersons and broker associates licensed to a Participant holding a Wyoming real estate license, appraiser for whom the Participant is responsible under the laws of the State of Wyoming and Wyoming licensed or certified real estate appraisers, unlicensed administrative and clerical staff, personal assistants and individuals seeking licensure or certification as a real estate appraiser who are under the direct supervision of an MLS Participant or the Participant’s Wyoming licensed designee. “**Property**” means real property.

“**Sell,**” “**sale**” and “**purchase**” refer to the sale, exchange or lease of property.

“**Seller**” means an individual, individuals, legal entity or legal entities seeking to sell property in which the seller holds an interest.

“**Buyer**” means an individual, individuals, legal entity or legal entities seeking to purchase an interest in a property.

“**Listing contract**” or “**listing**” means a contract between a broker and a seller engaging the broker to undertake activities to bring about the sale of the seller’s property.

“**Listing broker**” means the broker engaged under a listing contract.

“**Cooperating broker**” means a broker who assists another broker (usually the listor) in the sale of real property.

**Exclusive Right-to-Sell Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker, regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else; and a contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing

agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker.

**Exclusive Agency Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker.

**Open Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker only if the property is sold through the efforts of the listing broker.  
(Amended 11/89)

**“Dual or variable rate commission arrangement”** means a listing contract in which the seller agrees to pay a specified commission to the listing broker if the listing broker sells the property 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 to the listing broker if the listing broker sells the property either with or without the assistance of a cooperating broker and a different commission if the sale results through the efforts of the seller.

**“Listing record”** means the database record in the service relating to a listing contract.

**“Submit”** means, with regard to a listing or listing record, entry by the listing broker of the listing record or a modification of the listing record directly into the service or delivery to the service of all information the service requires for the service to enter the listing record or its modification on the listing broker’s behalf.

**“Active listing record”** means a listing record with any of the following statuses: “Active” or “Active with Contingency.”

**“Off-market listing record”** means a listing record that is not an active listing record.

**“Listing compilation”** means any publication or aggregation of listing records created by the service, including online databases, bound books, loose-leaf binders, proprietary databases, and card files.

**“Including”** means “including, but not limited to” unless the context clearly indicates otherwise.

The measurement of time is exclusive of Saturdays, Sundays, and holidays on which the offices of the service are closed.

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**Section 1.LISTING PROCEDURES:** Listings of real or personal property of the following types, which are listed subject to a Wyoming real estate broker's license, located within the territorial service area of the Northwest Wyoming Board of REALTORS® (which shall be known as all of Park and Big Horn Counties taken by Participants as Exclusive Agency or Exclusive Right to Sell Listings (***Seller and Intermediary***) shall be entered into the Service within three (3) business days of obtaining all necessary signatures of seller(s). If the Listing Date specified in the Listing Agreement is a different date than the Listing Agreement's Signature Date, the listing may be entered into the Service within three (3) business days of the Listing Date. If the listing goes under contract within the applicable three (3) business days' period, it shall still be entered into the Service as an MLS listing. (Amended 09/24/2015).

- (a) Single family homes with 20 acres or less, for sale or exchange.
- (b) Residential Vacant lots and acreage for sale or exchange.
- (c) Two-family, three-family, and four-family residential buildings for sale or exchange.
- (d) Townhomes, condos and mobile homes for sale or exchange.
- (e) Commercial; Business Assets and Farm and Ranch optional.
- (f) Cabins on Forest Service Lease

The Service through its legal counsel:

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

The Service shall accept exclusive agency listing contracts and exclusive rights to sell contracts (Seller agency and intermediary) and may accept other forms of agreement which make it possible for the listing Participant to offer compensation to the other Participants of the Service acting as subagents, buyer agents, or intermediary/non-agency capacity defined by law.

The Participant must have the seller's written authorization to submit the listing data to the Service.

The different types of listing agreements include:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (d) net

The service will not accept net listings because they are deemed unethical and, in most states illegal. Open listings are also not accepted except where required by law - as they tend to not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. However, a Participant is free to accept such listings to be handled outside the Service.

The Participant shall identify Exclusive Agency Listing from Exclusive Right to Sell listings in the Service.

Note 2: The Service does not regulate the type of listings its Members may take. This does not mean that the Service must accept every type of listing.

**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 Wyoming real estate broker:

1. residential
2. residential income
3. subdivided vacant lot
4. land and ranch
5. business opportunity
6. motel-hotel
7. mobile homes
8. mobile home parks
9. commercial income
10. industrial

**Section 1.11 LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE:** Any listing to be filed with the Service is subject to the Rules and Regulations of the Service.

**Section 1.2. DETAIL ON LISTINGS FILED WITH SERVICE.** All listings filed with the service shall be complete in every detail which is ascertainable as specified within the entry format. A copy of the listing agreement signed by the seller shall be provided to the Service by the listing Participant upon request of the-MLS Committee.

**Section 1.3 EXEMPTED LISTINGS:** If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing ("office exclusive") and such listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service. (revised 01/05)

**Section 1.4 CHANGE OF STATUS OF LISTING:** Any change in listed price or other change, including extensions and renewals, in the original listing agreement shall be made only when the Participant receives written authorization from the seller.

**Section 1.5 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION:** Listings of property may be withdrawn from the Service by the Listing Participant before the expiration date of the listing agreement provided the Listing Participant has a copy of the agreement between the seller and the listing Participant which authorizes the withdrawal.

Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing Participant's concurrence. However, when a seller(s) can document that his exclusive

relationship with the listing Participant has been terminated, the Service may remove the listing at the request of the seller.

**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 must be included in the information entered into the Service. Listing price may not contain a square footage or per acre price.

**Section 1.8 LISTING MULTIPLE UNIT PROPERTIES:** All properties which are to be sold individually must be indicated individually in the listing agreement and entered individually in the Service.

**Section 1.9 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS:** The Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-Participants.

**Section 1.10 EXPIRATION, EXTENSION AND RENEWAL OF LISTINGS:** Any listing filed with the service should expire on the date specified on the listing agreement and/or signed extension. Listings filed with the 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 that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s). (revised 01/05)

**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 Participant and the seller.

**Section 1.12 SERVICE AREA:** All listings meeting the criteria set forth in Section 1, located within the service area of the Northwest Wyoming Board of Realtors®' Multiple Listing Service are required to be submitted to the Service. Listings of property located outside the Board's service area will be accepted if submitted voluntarily by a Participant but is not required by the Service. (Amended 11/17)

Note: Associations must choose whether the service will accept listings from beyond its service area into the MLS compilation. (Amended 11/17).

**Section 1.13 LISTINGS OF PARTICIPANTS EXPELLED AND/OR SUSPENDED FROM THE MLS:** When a Participant of the Service is expelled or suspended from the MLS for failing to abide by a membership duty (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 Service by the suspended or 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 in the Service beyond the

termination date of the listing agreement in effect when the expulsion or suspension became effective.

**Section 1.14 LISTINGS OF PARTICIPANTS EXPELLED AND/OR SUSPENDED FOR FAILURE TO PAY FINANCIAL OBLIGATIONS:** If a Participant has been expelled or suspended from the Northwest Wyoming Board of REALTORS® or MLS (or both) for failure to pay appropriate dues, fees or charges, the Board is not obligated to provide MLS services, including continued inclusion of the expelled or suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled or suspended Participant's listings from the Service, the Participant will be advised in writing of the intended removal so that he/she may advise his clients.

**Section 1.15 LISTINGS OF RESIGNED PARTICIPANTS:** When a Participant resigns from the Service, continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information will be discontinued. The resigned Participant will be advised in writing of the intended removal so that the resigned Participant may advise his clients. (Amended 2-14-02)

## **SELLING PROCEDURES**

**Section 2: SHOWINGS AND NEGOTIATIONS:** Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Service shall be conducted through the listing Participant except under the following conditions:

- (a) the listing Participant gives cooperating Participant specific written authority to show, set up appointments, and or negotiate directly, or
- (b) after reasonable effort, the cooperating Participant cannot contact the listing Participant or his representative. However, the listing Participant, at his option, may preclude such direct negotiations by cooperating Participants.

1. If a Participant does not want "b" above to occur then the following sentence must be entered under the instruction section in the MLS system. "Under no circumstances is a cooperating Participant authorized to directly contact the seller".

**Section 2.1 PRESENTATION OF OFFERS:** The listing Participant must make arrangements to present the offer as soon as possible or give the cooperating Participant a satisfactory reason for not doing so.

**Section 2.2 SUBMISSION OF WRITTEN OFFERS:** The listing Participant 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 Participant. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing Participant 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 PARTICIPANT IN PRESENTATION OF OFFER:**

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

**Section 2.4 RIGHT OF LISTING PARTICIPANT IN PRESENTATION OF COUNTER-OFFERS:**

The listing Participant 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 where the cooperating Participant is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating Participant that the listing Participant not be present when a counter-offer is presented, the listing Participant has the right to a copy of the purchaser's or lessee's written instructions.

**Section 2.5 REPORTING SALES TO THE SERVICE:** All sales of any property filed with the Service must be reported by the Listing Participant. Sale information shall include terms sale price, concessions amount and description, contract date, closing date, and financing type. Sale information will may be excluded, and the listing withdrawn from the Service upon a Listing Participant providing a signed directive from the seller or the buyer. The listing will not be deleted, in order to preserve the history of the listing within the Service. The Listing Participant must include a statement in the Comments field such as "Property Sold, Sale Information Not Disclosed". (Amended 01/18)

Status changes, including final closing of sales, shall be reported immediately to the multiple listing service by the listing broker within 72 hours after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers to the listing broker within twenty-four (24) hours after acceptance occurrence and the listing broker shall report them to the MLS within 72 hours after receiving notice from the cooperating broker. (Amended 11/08)

**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.

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

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

The 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.) M (Amended 10/12)

NOTE: The listing agreement of a property filed with the MLS by the listing Participant should include a provision expressly granting the listing Participant 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 Participant the right to authorize dissemination of this information by the MLS to its Participants. (Amended 11/01)

**Section 2.6: REPORTING RESOLUTIONS OF CONTINGENCIES:** The listing Participant shall update any listing in the Service when a contingency on file with the Service has been fulfilled, renewed, or the agreement cancelled.

**Section 2.7: ADVERTISING OF LISTING FILED WITH THE SERVICE:** A listing shall not be advertised by any Participant, other than the listing Participant, without prior written consent.

**Section 2.8: ADVERTISING OF LISTINGS ON REALTOR.COM AND IDX:** Participants who utilize Realtor.com and IDX have granted permission to other Participants to display their listings on their websites and/or their agent’s websites with responsible broker’s permission. Listing brokerage name must be displayed on said websites. Only “Exclusive Right to Sell” and “Exclusive Agency” listings shall be included in data feeds.

**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. (Amended 11/08)

**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)

NOTE: Submission of a pending sale to MLS is not a mandatory requirement of a Participant. However, Participant is required to tell cooperating Participants of an accepted offer when they are requesting a showing appointment as per the Code of Ethics and Standards of Practice 3-6.

## **REFUSAL TO SELL**

Section 3. REFUSAL TO SELL: If the seller of any listed property filed with the Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, said listing shall be immediately removed or the terms and conditions updated in the Service by the Listing Participant.

## **PROHIBITIONS**

**Section 4: INFORMATION FOR PARTICIPANTS ONLY:** Any listing filed with the Service shall not be made available to any Broker or firm not a member of the Service without prior consent of the listing Participant.

**Section 4.1 "FOR SALE" SIGNS:** Only the "For Sale" signs of the listing and/or co-listing Participant may be placed on a property.

**Section 4.2: "SOLD SIGNS":** Prior to closing, only the "Sold" sign of the listing Participant and /or Co-Listing Participant may be placed on a property, unless the listing Participant and Co-Listing Participant authorizes the cooperating (selling) Participant to post such a sign.

**Section 4.3 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: 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 Participants and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from Participants 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 Participant.

This section is also intended to encourage Participants 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 Participants would be most reluctant to generally disclose the identity of the seller or the availability of the property to other Participants.

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.

## 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)

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

**Note 2:** The listing broker may, from time to time, adjust the compensation 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.
- Note 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (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 must 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 or confidential "remarks" available only to Participants and subscribers. (Amended 5/09)

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 his 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 11/95)

Note: MLSs may also, as a matter of local discretion, allow Participants to offer cooperative compensation as a percentage of the net sales price, with net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation. (Adopted 5/08)

**Section 5.0.1** 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 contact, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating Participants. (Amended 5/09)

**Section 5.1: PARTICIPANT AS SELLER:** If a Participant or any licensee affiliated with a Participant or a licensed or certified appraiser has any ownership interest in a property, being disseminated through the Service, that person shall disclose that interest in the listing data entered.

**Section 5.2: PARTICIPANT AS PURCHASER:** If a Participant or any licensee affiliated with a Participant or a licensed or certified appraiser wishing to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed in writing to the listing Participant not later than the time an offer to purchase is submitted to the listing Participant.

**Section 5.3: DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS:** The existence of a dual or variable rate commission arrangement (i.e. one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing Participant without assistance and a different commission if the sale/lease results through the efforts of a cooperating Participant; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing Participant either with or without assistance of a cooperating Participant and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing Participant by a key, code or symbol as required by the MLS. The listing Participant shall, in response to inquiries from potential cooperating Participants, disclose the differential that would result in either a cooperative transaction, or alternatively in a sale/lease that results through the efforts of the seller/landlord. If the cooperating Participant 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. (4-18-02)

## SERVICE CHARGES

**Section 6: SERVICE FEES AND CHARGES:** The following service charges for operation of the Service are in effect to defray the costs of the Service and are subject to change from time to time in the manner prescribed:

- (a) **INITIAL OFFICE APPLICATION FEE:** An applicant for participation in the Service (Principal Broker of an office) shall pay an application fee, with such fee to accompany the application. This fee shall be in the amount as set forth in the Fee Schedule (Exhibit "A") as determined by the MLS Committee and approved by the Northwest Wyoming Board of Directors. Said fees shall be non-transferable. (05/16/02)
- (b) **REINSTATEMENT FEE:** Any Participant that ceases membership with the Service (in good standing) shall have twelve (12) months in which to re-instate as the same company under the same name at the fee set forth in the Fee Schedule (Exhibit "A"). (4-18-02)
- (c) **REINSTATEMENT FEE FOR SUSPENDED PARTICIPATE FROM THE NORTHWEST WYOMING BOARD OF REALTORS® OR MLS FOR NON-PAYMENT OF FEES:** When a Participant is suspended from the Board or MLS, MLS services and monthly service fees will be discontinued. In order for services to be reinstated, all fees and late fees owed prior to the suspension must be paid in full. In addition, a per-listing fee as stated in the Fee Schedule (Exhibit "A") will be charged. This fee will apply to all listings that were in an "active" or "pending" status at the time the suspension occurred. (4-18-02) (7/03)
- (d) **MLS MONTHLY PARTICIPATION FEE:** Each Participant will be charged a monthly computer user fee for each and every active licensee who is employed by or affiliated as an independent contractor with such Participant in their office as of the first of each month. Said monthly fee shall not be pro-rated and shall be set forth in the Fee Schedule (Exhibit "A")

However, MLSs must 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 where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their Participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated. \* (Adopted 11/17)

\*Mandatory waiver provision is effective no later than July 1,2018.

Note 1: A Multiple Listing Service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by increased frequency of such payments.

Note 2: Multiple Listing Services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for

access to and use of MLS information as subscribers may, at their discretion, charge recurring fees. (Amended 11/17)

Listing Fee: A Participant shall pay a monthly listing fee in an amount equal to the number of listings he filed with the service during the previous month, multiplied by the listing fee of \$ \_\_\_ per listing.

Note: An alternative provision for the listing fee is: "For filing a new listing or renewal of a listing with the service, a fee of \$ \_\_\_\_\_ shall accompany each listing when filed with the service."

Optional: It is a matter of agreement between the listing and selling brokers as to whether or not the cooperating broker shall reimburse the listing broker for the listing fee. The Multiple Listing Service shall not be concerned because this is an arrangement between cooperating brokers, and the Multiple Listing Service rules do not dictate the compensation offered to cooperating brokers by the listing broker.

(1) The Wyoming Real Estate Commission staff investigator shall be allowed to access the MLS on a case-by-case basis to be used for the purpose of valid complaints. Legal draft to be created for access by (the) Wyoming Real Estate Commission. There will be no fee charged to the Commission for the agreed upon access to MLS. (adopted 08/2014)

Participants shall not be charged this monthly fee for Licensed Secretaries that have signed a Secretarial Affidavit with the Board (Exhibit C).

(1) If the Participant or Agent fails to immediately advise the Board that the Agent has decided to actively list or sell real estate or start receiving compensation from a real estate transaction or property management, the Participant shall be assessed the full monthly fee for the computerized copy of the MLS Database for the entire period that the Agent has been licensed with the Participant. (04/06)

**(e) SOLD BOOK FEE:** Each office receiving hard copies of the MLS Sold Book will be charged a monthly fee times the number of books received. Said fee shall be based on the bill received from the book publisher divided by the number of MLS Participants and licensees receiving sold books. If a Participant or licensee goes inactive in the middle of the month, the book fee will continue for the balance of that month. Said fee shall be set forth in the Fee Schedule (Exhibit "A"). This shall apply to all Licensed Secretaries regardless of whether a signed Secretarial Affidavit is on file with the Board. (04/06)

## **COMPLIANCE WITH RULES**

**Section 7: 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
- (e) termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years (11/07)

\*Note: If a Participant has been expelled or suspended from the Northwest Wyoming Board of REALTORS® or MLS (or both) for failure to pay appropriate dues, fees or charges, the Board is not obligated to provide MLS services, including continued inclusion of the expelled or suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled or suspended Participant's listings from the Service, the Participant will be advised in writing of the intended removal so that he/she may advise his clients.

Note: A Participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a Participant (or user/subscriber, 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.

**Section 7: COMPLIANCE WITH RULES:** The following action may be taken for noncompliance with the rules.

- (a) Failure to pay any fee within one (1) month of the date due and provided that at least five (5) days' notice has been given, a 20% service fee will be assessed and the Participant and all Service for the MLS will be suspended until service charges and fees are paid in full. (7/03)
  - 1) All active and pending listings may be deleted from the MLS
  - 2) Offenders shall be designated as members not in good standing. (7/18/02)
  - 3) A reinstatement fee as stated in the Fee Schedule (Exhibit "A") shall be charged per reinstatement. (07/18/02)
- (b) For failure to comply with any other rule, the provisions of Sections 10 and 10.1 shall apply.

**Section 7.1 APPLICABILITY OF RULES TO SUBSCRIBERS:** Non-principal Wyoming-licensed brokers, Wyoming-licensed sales licensees, Wyoming-licensed or certified real

estate 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 has signed an MLS Participation Agreement (Exhibit “B”), acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any subscriber to abide by the Rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant’s ultimate responsibility and accountability for all subscribers affiliated with the Participant.

**Section 7.2 The Multiple Listing Service shall be subject to the Bylaws of the Northwest Wyoming Board of REALTORS®.**

**Section 7.3, Electronic Display of Other Participant’s Listings**

**It is the policy of the Northwest Wyoming Board of REALTORS® that Participants are not allowed to display non-IDX listings of other Participants on social media.**

MLSs may but are not required to give Participants the ability to authorize electronic display of their listings by other Participants outside the context of the Internet Data Exchange (“IDX”) policy and rules and the Virtual Office Website (“VOW”) policy and rules.

Participants may not be required to consent to display or distribution of their listings through non-IDX and non-VOW channels as a condition of participation in MLS or as a condition of participation in IDX, except as otherwise provided for in the IDX rules. Electronic display and distribution pursuant to this policy contemplates, but is not limited to, Short Message Services (“SMS”)/texting technologies, and interactive “social media”. All electronic displays and/or distribution of other Participants’ listings conducted pursuant to this policy must comply with state law and regulations and applicable rules.

Displays addressed by this policy may be subject to technological limitations on disabling/discontinuing third-party comments/reviews, disabling/discontinuing automated displays of market value, “refreshing” displays on a periodic basis, and possibly other issues which should be taken into consideration when developing rules and policies governing such displays. (Adopted 11/12)

**Section 7.4, Categorization of MLS Services, Information, and Products**

The services, information, and products that multiple listing services provide to Participants and to subscribers affiliated with Participants may be categorized as core, as ancillary to the core but included in a basic package of MLS services as determined locally and provided to all MLS Participants and subscribers automatically or on a discretionary basis, or as optional and available to Participants and subscribers at their discretion.

Core: Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:

- active listing information
- information communicating compensation to potential cooperating brokers

Core services include the mechanisms (print or electronic or both) by which this information is communicated between Participants and the MLS. Where MLS participation is available to

non-member brokers or their firms, either by law or by local decision, the information, services and products available to such Participants may be limited to those categorized as core.

Basic: In addition to core services, an MLS may automatically or on a discretionary basis, provide additional information, service, and products substantially related to the purpose and function of MLS such as, but not limited to:

- sold and comparable information
- pending sales information
- expired listings and “off market” information
- tax records
- zoning records/information
- title/abstract information
- mortgage information
- amortization schedules
- mapping capabilities
- statistical information
- Public accommodation information (e.g., schools, shopping, churches, transportation, entertainment, recreational facilities, etc.)
- MLS computer training/orientation
- access to affinity programs
- establishment, maintenance, and promotion of public-facing websites

Optional: An MLS may not require a Participant to use, participate in, or pay for the following optional information, services or products:

- lockbox equipment including lockboxes (manual or electronic), combination lockboxes, mechanical keys, and electronic programmers or keycards.
- advertising or access to advertising (whether print or electronic), including classified advertising, homes-type publications, and electronic compilations, including Participant, subscriber, or firm homepages or websites.

Notwithstanding the foregoing, where permitted by law\*, an MLS may treat Optional information, services or products as Basic provided that the MLS does not receive an economic benefit from the arrangement as demonstrated by satisfying both of the following conditions:

1. The MLS or its shareholder(s) is not the seller, lessor, or licensor of the information, service, or product (i.e., the information, service, or product is sourced from an independent third party); and
2. The MLS does not make a profit or receive a commission or rebate based on the sale, lease, or license that exceeds the operational costs of providing the information, service, or product.

While no Participant can be required to use, participate in, or pay for information, services, or products defined in this policy statement as optional, an MLS may, as a matter of local determination, bill all Participants (or, where appropriate, subscribers) for optional information, services, or products provided that Participants (or, where appropriate, subscribers) may decline such information, services, or products and not be charged for them. In such cases, the MLS must make all Participants and subscribers aware, in advance, of their right to decline any such service, product, or information.

None of the foregoing precludes an association or MLS from utilizing association or MLS reserves, dues, or fees or special assessments (as otherwise provided for in the association of MLS governing documents) to acquire assets (including hardware and software) necessary to make optional information, services, or products available to Participants and subscribers, provided any funds used to acquire assets or initiate services will be reimbursed out of the proceeds realized from the sale or lease of such information, services, or products. Associations of REALTORS® and MLSs may make nominal administrative expenditures out of reserves, dues, or fees to initiate or maintain optional services and products.

\*MLSs in the following states/territories may not treat Optional information, services or products as Basic: States within the First, Second and Eighth United States Circuits, that include Arkansas, Connecticut, Iowa, Maine, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New York, North Dakota, Puerto Rico, Rhode Island, South Dakota and Vermont.

#### **MLS Policy Statement 7.42, Jurisdiction of Association Multiple Listing Services**

The service area of multiple listing services owned and operated by associations of REALTORS® is not limited to the jurisdiction of the parent association(s) of REALTORS®. Rather, associations are encouraged to establish multiple listing services that encompass natural market areas and to periodically reexamine such boundaries to ensure that they encompass the relevant market area. While associations are encouraged to work cooperatively to establish market area multiple listing services, the absence of such an agreement shall not preclude any association from establishing and maintaining a multiple listing service whose territory service area exceeds that of the parent association(s) jurisdiction. MLSs may not require other offices of a firm to participate in the MLS if any office of that firm participates in that MLS. (Revised 05/02)

#### **MLS Policy Statement 7.43, Waivers of MLS Fees, Dues and Charges**

Recurring MLS fees, dues and charges may be based upon the total number of real estate brokers, sales licensees, and licensed or certified real estate appraisers affiliated with or employed by an MLS Participant. However, MLSs must 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 where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their Participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated.

#### **Section 8: MLS PARTICIPATION:**

*Any **Realtor**® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these 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 multiple listing service membership or participation unless they hold a current, valid Wyoming real estate broker's license and offer or accept compensation to and from*

*other Participants or are licensed or certified by an appropriate Wyoming state regulatory agency to engage in the appraisal of real property. 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 by or published by an association multiple listing service where access to such information is prohibited by law. The Realtor® principal of any firm, partnership, corporation, or the branch office manager designated by said firm, partnership, or corporation as the Participant shall have all rights, benefits, and privileges of the service, and shall accept all obligations to the service for the Participant's firm, partnership, or corporation, and for compliance with the bylaws and rules and regulations of the service by all persons affiliated with the Participant who utilize the service.*

*Mere possession of a Wyoming broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. (Adopted 11/08)*

*The key is that the Participant or potential Participant actively endeavors to make or accept offers of compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of compensation. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept compensation only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)*

*The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may*

*evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)*

**MLS Only Participation:** Any REALTOR® (principal) or any firm comprised of REALTOR® (principals) who are member(s) of a Board other than the Northwest Wyoming Board of REALTORS® and who hold a current, valid Wyoming Broker's or Salesperson's license or is licensed or certified by an appropriate Wyoming regulatory agency to engage in the appraisal of real property may apply for MLS Only Participation. MLS Only Participatory rights shall be granted according to the following:

"As cited in Part One: Key Definitions, Section 2. Definition of MLS Participant of the current NAR Handbook on Multiple Listing Policy: Under the "Board of Choice" policy, MLS participatory rights shall be available to any REALTOR® (principal) or any firm comprised of REALTOR® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other Participants; and payment of any MLS dues, fees, and charges. Participatory rights granted under Board of Choice do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director.

The universal access to service component of Board of Choice is to be interpreted as requiring that MLS Participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing REALTORS® not holding primary or secondary membership locally fees, dues, or charges that exceed those or alternatively, that are less than those charged Participants holding such memberships locally or additional fees to offset actual expenses incurred in providing MLS services such as courier charges, long distance phone charges, etc., or for charging any Participant specific fees for optional additional services. (Adopted 11-96)"

MLS Only Participation does not convey membership in the Northwest Wyoming Board of REALTORS® nor does it grant the Participant the benefits, certain services and protection of membership. Applicants must agree to:

(1) abide by the Northwest Wyoming Board of REALTORS® MLS Rules & Regulations and Policies and the Code of Ethics of the National Association of REALTORS® including the obligations to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics as further specified in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended,

(2) and that the applicant consents that the MLS, through its MLS Committee or otherwise, may invite and receive information and comment about applicant from any Member or other persons, and that applicant agrees that any information and comments furnished to the Committee by any person in response to the invitation shall be conclusively deemed to be privileged and not form the basis of any action for slander, libel, or defamation of character, and

(3) that the applicant holds a current, valid Wyoming Broker's or Salesperson's license or is licensed or certified by an appropriate Wyoming regulatory agency to engage in the appraisal of real property. The applicant shall, with the form of application, have access to a copy of the MLS Rules and Regulations, and Code of Ethics referred to above.

**Application for Participation:** Application for participation shall be made in such manner and form as may be prescribed by the Board of Directors and the Committee of the Service and made available to any Designated REALTOR® principal of this or any other Board requesting it. The application form shall contain a signed statement agreeing to abide by these Rules & Regulations and any other applicable policies of the Service as from time to time are amended or adopted. A 72-hour grace period may be considered before services will be activated to ensure legitimacy of application. (Amended 2/94, 10/17)

The Association Executive Officer (AEO) shall determine whether the applicant is applying for the appropriate class of membership, shall verify the applicant's information and seek approval from the MLS Chairman. Participation and access to services will not take effect until all information is verified. Applicants for MLS Only Participation may be granted membership upon submission of a completed application form, and remittance of applicable association dues and fees and following information verification and approval of the AEO and MLS Chairman.

**Section 8.1 – MLS NOTIFICATION OF NEW LICENSEE:** All Participants shall notify the Board Office of all licensees joining their office within one (1) week of the date on the agents' license and ensure that all fees are paid, necessary forms completed, and orientation process commenced. If notification is not made within this specified time frame, the Participant will be charged \$50.00 a week until notification is received. (\*Note: Section 8.1 refers only to MLS fees, not Board dues.)

**Section 8.2 MLS PARTICIPATION AGREEMENT:** All REALTOR® members must sign an MLS Participation Agreement (Exhibit "B-1 & B-2"), prior to receiving MLS Services, stating they will comply with all relevant Rules and Regulations and other obligations of participation including payment of fees.

**Section 8.3 MLS MEMBERSHIP REQUIREMENT:** Any Participant belonging to another Board seeking membership to the NWBOR Multiple Listing Service shall complete, for informational purposes, a "Designated REALTOR®" Board Membership Application, in addition to the MLS Participation Agreement. (7-15-2004)

**Section 8.4 – MLS PARTICIPATION AS LICENSED SECRETARY:**

A Licensed Agent working as an office assistant at a Participant's Office and neither actively lists or sells real estate and does not receive compensation as a result of real estate transactions or property management may sign a Secretarial Affidavit with the Board and have the monthly MLS Participation Fees waived. (Exhibit "C"). (04/06)

(A) A computerized MLS database compilation shall be provided to the Participant for the Agent at no cost. If at any time the Agent begins to actively list or sell real estate or be compensated as a result of a real estate transaction or property management, the broker and the Agent will notify the Board, so the compilation sold to the Participant for the Agent may be charged accordingly. (04/06)

## MEETINGS

**Section 9: MEETINGS OF THE MLS COMMITTEE:** The Multiple Listing Service Committee shall meet for transaction of its business at a time and place to be determined by the Committee or at the call of the Chairman.

(a) Open to all Participants and Subscribers (04/06)

**Section 9.1 MEETINGS OF MLS PARTICIPANTS:** The Committee may call meetings of the Participants and Subscribers in the Service to be known as meetings of the Multiple Listing Service.

**Section 9.2 CONDUCT OF THE MEETINGS:** The Chairman, or Vice Chairman, shall preside at all meetings or, in their absence; a temporary Chairman from the membership of the Committee shall be named by the Chairman or, upon his failure to do so, by the Committee.

## ENFORCEMENT OF RULES AND DISPUTES

**Section 10: CONSIDERATION OF ALLEGED VIOLATIONS:** The MLS Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations.

**Section 10.1 VIOLATIONS OF RULES AND REGULATIONS OR NWWYBOR BYLAWS:** If the alleged offense is a violation of the Rules and Regulations of the Service or NWWYBOR Bylaws 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 Board in accordance with the bylaws and rules and regulations of the Board of Realtors® within twenty (20) days following receipt of the Committee's decision. The Committee may impose fines as deemed necessary in order to protect the interest of the Participants, upon approval of the Directors of the Northwest Wyoming Board of REALTORS®.

**Section 10.2 COMPLAINTS OF UNETHICAL CONDUCT:** All other complaints of unethical conduct shall be referred by the MLS Committee to the Executive Officer of the Northwest Wyoming Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's Bylaws.

### 10.3 Standards of Conduct for MLS Participants

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

- a) engage in deceptive or unauthorized framing of real estate brokerage websites;
- b) manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c) deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- d) present content developed by others without either attribution or without permission; or

e) otherwise misleading consumers, including use of misleading images. (Amended 1/18)

## **CONFIDENTIALITY OF MLS INFORMATION**

**Section 11. 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.

**Section 11.1 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 such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

**Section 11.2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION:** REALTORS® who are actively engaged in real estate brokerage, management, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, 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 these Members and individuals affiliated with these 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 the Rules and Regulations.

This "comparable" and "sold" information may be purchased at the price set by the MLS Committee, and approved by the Directors of the Northwest Wyoming Board of REALTORS® in the Fee Schedule (Exhibit "A")

## **Ownership of Listing and Listing Content**

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

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

Participants cannot be required to transfer ownership rights (including intellectual property rights) in their listings or listing content to MLS to obtain or maintain participatory rights except

that MLSs may require Participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. MLSs may also require Participants to warrant that they have the rights in submitted information necessary to grant these rights to MLS. M

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

By the act of submitting any property listing content to the MLS, the Participant represents that he has been authorized to license and also thereby does license 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. (12/2016)

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.

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.

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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.

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

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

Participants cannot be required to transfer ownership rights (including intellectual property rights) in their listings or listing content to MLS to obtain or maintain participatory rights except that MLSs may require Participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. MLSs may also require Participants to warrant that they have the rights in submitted information necessary to grant these rights to MLS. (Adopted 5/05, Amended 5/06)

**Section 12.1 ALL RIGHT, TITLE AND INTEREST IN MLS COMPILATIONS:** All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Northwest Wyoming Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the Northwest Wyoming Board of REALTORS®.

**Section 12.2 ENTITLEMENT TO LEASE MLS COMPILATIONS:** Each Participant shall be entitled to lease from the Northwest Wyoming Board of REALTORS® 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 Board.

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

a. 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 nor use of the MLS information or MLS facility of the Board.

## USE OF COPYRIGHTED MLS COMPILATIONS

**Section 13: DISTRIBUTION:** Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Northwest Wyoming Board of REALTORS® and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as licensees. Use of information developed by or published by the 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 the Service where access to such information is prohibited by law.

**Section 13.1 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 13.2 REPRODUCTION of MLS Information:** 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 property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

\* It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchasers' 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 Compilations, how 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 could be shown to the prospective purchaser.

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

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

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

\* The term MLS Compilation as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer data base, card file, or any other format whatever.

### **Real Estate Transaction Standards (RETS):**

The integrity of data is a foundation to the orderly real estate market. The Real Estate Transaction Standards (RETS) provide a vendor neutral, secure approach to exchanging listing information between the broker and the MLS. In order to ensure that the goal of maintaining an orderly marketplace is maintained, and to further establish REALTOR® information as the trusted data source, MLS organizations owned and operated by associations of REALTORS® will implement the RESO Standards including: the RESO Dictionary by January 1, 2016; the RESO Web API by June 30, 2016 and will keep current by implementing new releases of RESO Standards within one (1) year from ratification. Compliance with this requirement can be demonstrated using the Real Estate Standards Organization (RESO) compliance Certification Process. (Amended 11/14) M.

### **USE OF MLS INFORMATION**

**Section 14: LIMITATIONS ON USE OF MLS INFORMATION:** 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.

However, any print or non-print forms of advertisement 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 Northwest Wyoming Board of REALTORS® Multiple Listing Service for the period (date) through (date)".

## **CHANGES IN RULES AND REGULATIONS:**

**Section 15: CHANGES IN RULES AND REGULATIONS:** Amendments to the Rules and Regulations of the Service shall be by a majority vote of the members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Northwest Wyoming Board of REALTORS®. Changes in the MLS Rules and Regulations will become effective immediately upon approval from the Board of Directors of the Northwest Wyoming Board of REALTORS®.

(Amended 3-21-02)

## **Section 16: ORIENTATION AND OTHER TRAINING**

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) M

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize Participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (Adopted 11/09)

## **IDX (Internet Data Exchange) (04/06)**

### **Section 17 IDX Defined**

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

"IDX database" is the current aggregate compilation of all exclusive right to sell and exclusive agency listings of all IDX Participants except those listings where the seller or listing broker has opted out of Internet publication by so indicating on the listing contract or through other means.

### **Section 17.1 – Authorization**

Participants' consent for display of their listings by other Participants pursuant to these rules and regulations must be established in writing. If a Participant withholds consent 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. (Amended 5/12)

## **Section 17.2 – 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 17.2.1**

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. (Amended 5/12)

### **Section 17.2.2.**

MLS Participants may not use IDX-provided listings for any purpose other than IDX 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 17.2.3.**

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing brokers to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. (Amended 05/17)

### **Section 17.2.4.**

Participants may select the IDX 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, exclusive agency, or open listing), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each Participant. (Amended 05/17)

### **Section 17.2.5**

Participants must refresh all MLS downloads and displays automatically fed by those downloads not less frequently than 12 hours. (Amended 11/14) M

### **Section 17.2.6**

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

### **Section 17.2.7**

When displaying listing content, a Participant's or user's IDX display must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. This policy acknowledges that certain required disclosures may not be possible in displays of minimal information (e.g., "thumbnails," "text messages", "tweets", etc. of 200 characters or less). Such displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. (Amended 05/12)

### **Section 17.2.8** With respect to any Participant's IDX display that

Any IDX display controlled by a Participant or subscriber that

a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

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

either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by Participants. Except for the foregoing and subject to Section 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.

### **Section 17.2.9**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property. The Participant 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, the Participant 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 17.2.10**

An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX 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 17.2.11**

Participants shall not modify or manipulate information relating to other Participants’ listings. MLS Participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from 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. M

### **Section 17.2.12**

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

\*Displays of minimal information (e.g., “Thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the devices application. (Amended 05/17).

## **Section 17.3 Display**

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

### **Section 17.3.1**

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 subscribers (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed. (Amended 5/12)

#### **Section 17.3.1.1**

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (Amended 5/12)

### **Section 17.3.2**

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 17.3.3**

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 5/12)

### **Section 17.3.4**

Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites 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 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 5/12)

### **Section 17.3.5**

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

### **Section 17.3.6**

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

### **Section 17.3.7**

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

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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 17.3.8**

Display of expired, withdrawn, and sold listings\* is prohibited. (Amended 11/14)

\*Note: If “sold” information is publicly accessible, display of “sold” listings may not be prohibited. (Amended 11/14).

**Section 17.3.9**

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

**Section 17.3.10**

Northwest Wyoming Board of REALTORS® IDX information must be obtained through the Northwest Wyoming Board of REALTORS® Multiple Listing Service.

**Section 17.3.11**

Preferential display of a Participant’s own listings shall be allowed. (Own listings come up first in a search).

**Section 17.3.12**

Participation in IDX is a privilege and will be suspended for no-payment of fees and/or dues until said fees and/or dues are paid current.

**Section 17.3.13**

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. 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. (M)

**Section 17.3.14**

Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. (Adopted 11/09)

**Section 17.3.15 Thumbnail Displays**

As governed by The Code of Ethics’, Article 12 “true picture test”,  
(a)A display of another Participant’s listing may not include any contact information or branding of the IDX Participant who owns the web site, any of its affiliated subscribers, or any third party in the body of the listing. The body is defined as the rectangular space whose borders are delimited by the utmost extent in each direction of the listing text and photo data.

#### **Section 17.4 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)

#### **Section 17.5 Notification**

An IDX Participant's web site must credit the Service as the source of the listings of other Participants appearing on the site. Participants and their affiliated licensees 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.

#### **Section 17.5.1 The IDX policy gives MLS Participants the ability to authorize limited electronic display of their listings by other Participants (Amended 5/12)**

Associations of REALTORS® and their multiple listing services must enable MLS Participants to display MLS listing information by specified electronic means in accordance with this policy. Requests for IDX feeds/downloads must be acted on by the MLS within 5 business days from receipt, barring extenuating circumstances related to an individual's qualification for MLS Participation, and review of the Participant's and vendor's use of the IDX information consistent with the MLS rules, in which case an estimated time of approval or denial must be issued. For purposes of this policy "control" means Participants must have the ability to add, delete, modify and update information as required by this policy. All displays of IDX listings must also be under the actual and apparent control of the Participant and must be presented to the public as being the Participant's display. Actual control requires that the Participant has developed the display or caused the display to be developed for the Participant pursuant to an agreement giving the Participant authority to determine what listings will be displayed, and how those listings will be displayed. Apparent control requires that a reasonable consumer receiving the Participant's display will understand the display is the Participant's and that the display is controlled by the Participant. Factors evidencing control include, but are not limited to, clear, conspicuous, written or verbal identification of the name of the brokerage firm under which the Participant operates except as otherwise provided for in this policy (e.g., displays of minimal information). All electronic display of IDX information conducted pursuant to this policy must comply with state law and regulations, and MLS rules. Any display of IDX information must be controlled by the Participant, including the ability to comply with this policy and applicable MLS rules. (Amended 5/15)

To comply with this requirement, MLSs must, if requested by a Participant, promptly provide basic downloading of all active listings, sold\* listing data starting from January 1, 2012, non-confidential pending sale listing data, and other listings authorized under applicable MLS rules. MLSs may not exclude any listings from the information which can be downloaded or displayed under IDX except those listings for which a seller has affirmatively directed that their listing or their property address not appear on the Internet or other electronic forms of display or distribution. Associations and MLSs can also offer alternative display options including framing of board, MLS, or other publicly-accessible sites displaying Participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to Participants' servers on a persistent or transient basis, at the discretion of the MLS. The

MLS's IDX download must be refreshed to accurately reflect all updates and status changes no less frequently than every twelve (12) hours. (Amended 11/15).

" Publicly accessible" as used in MLS policy and MLS rules means data that is available electronically or in hard copy, to the public from city, county, state and other government records. MLSs must provide for its Participants' IDX displays publicly accessible sold information maintained by the MLS for at least the last three years.

\*Note: If "sold" information is not publicly accessible, sold listings can be removed from the MLS's IDX feeds/downloads. "Publicly accessible" sold information as used in IDX policy and rules, means data that is available electronically or in hard copy to the public from city, county, state and other government records. MLSs must provide for its Participants' IDX displays publicly accessible sold information maintained by the MLS starting January 2, 2012. (Amended 05/15).

MLSs that allow persistent downloading of the MLS database by Participants for display or distribution on the Internet or by other electronic means may require that Participants' websites (1) utilize appropriate security protection, such as firewalls, provided that any security obligations imposed on Participants may not be greater than those employed concurrently by the MLS, and/or (2) maintain an audit trail of consumer activity on Participants' websites and make that information available to the MLS if the MLS has reason to believe that a Participant's IDX website has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. This policy does not require associations or MLSs to establish publicly accessible sites displaying Participants' listings. (Amended 05/12).

Pursuant to Wyoming state law, our MLS requires that Participants' consent for IDX display of their listings by other Participants be affirmatively established in writing. Even where Participants have given blanket authority for other Participants' display of their listings, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. (Amended 05/12).

Access to MLS databases, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MLS rules.

Participants' Internet websites and other authorized display mechanisms may also provide other features, information, or services in addition to IDX information (including Virtual Office Website ["VOW"] functions) which are not subject to this policy. (Amended 05/12)

### **Policies Applicable to Participants' IDX Websites and Displays**

1. Participants must notify the MLS of their intention to display IDX information and give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.
2. MLS Participants may not use IDX-provided listings for any purpose other than IDX display. This does not require Participants to prevent indexing of IDX listings by recognized search engines.

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 websites or VOWs) shall not be accessible via IDX display.

4. Participants may select the IDX listings they choose to display 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 provided by the listing firm. Selection of IDX listings to be displayed must be independently made by each Participant.

5. Participants must refresh all MLS downloads and displays automatically fed by those downloads not less frequently than every twelve (12) hours.

6. Except as provided elsewhere in this policy or elsewhere in an MLS’s rules and regulations, an IDX display or Participant engaging in IDX display may not distribute, provide, 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 display must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. This policy acknowledges that certain required disclosures may not be possible in displays of minimal information (e.g., “thumbnails,” text messages, “tweets,” etc., of 200 characters or less) or for audio delivery of listing content. Minimal displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from the disclosure requirements only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application.

8. With respect to any Participant’s IDX display that

a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

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

either or both of those features shall be disabled or discontinued with respect to the seller’s listing 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 by all Participants. Except for the foregoing and subject to paragraph 9, a Participant’s IDX display may communicate the Participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying customers that a particular feature has been disabled at the request of the seller.

9. Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific

property. The Participant 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 that property explaining why the data or information is false. However, the Participant shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

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

11. Participants shall not modify or manipulate information relating to other Participants’ listings. MLS Participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from 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. **M**

12. An MLS Participant’s IDX display must identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. (Amended 11/17)

#### **Section 17.6: Participant control and branding.**

(a) Any website that displays any portion of the IDX database must be under the actual and apparent control of a single Participant who is an IDX Participant and must be advertised as that IDX Participant’s web site. Actual control means that the IDX Participant has either built the web site for its own use with internal resources or obtained technology for the web site under an agreement with a third party that provides the IDX Participant final say over how the web site is operated. Apparent control means that a reasonable consumer viewing the site would conclude that it is under the control of the IDX Participant. Indicia of apparent control include that the IDX Participant’s branding is more prominent than that of any other entity and that the domain name and branding on the site distinguish the IDX Participant from non-participating offices in the same firm and from other franchisees of the same franchise, if applicable.

The broker’s branding shall appear at the top of the page and shall consist at a minimum of the brokerage firm’s full name with all text displayed at least 10 points high. Brokerage firm name here means the full name of the firm as registered with the service (e.g., “Century 21” or “Re/Max” is not enough; it must include the entire firm name). In the case of multi-office firms, the branding must be displayed in such a way as to make it clear to a reasonable consumer that it is the service’s participating office(s) that provide the data for the web-site.

### **Section 17.7 Publication permitted**

An IDX Participant may republish all or a portion of the IDX database on the Internet in accordance with the provisions of these rules and in keeping with any policies that the service may adopt from time to time. Unless expressly contravened by the provisions of section 17 of these Rules and Regulations all other rules and regulations remain in full force and effect. (Note: Please refer to Section 17.3.13 for clarification of Participant's permission requirement.)

### **Section 17.8 Disclosure/disclaimer required**

Any display including another Participant's listing must display the following or substantially similar disclosure/disclaimer: "The data relating to real estate on this web site comes in part from the Broker Internet Data Exchange Program of the Northwest Wyoming Board of REALTORS®. All information is deemed reliable but not guaranteed and should be independently verified. All properties are subject to prior sale, change, or withdrawal. Neither listing broker(s) nor [name of IDX Participant's firm] shall be responsible for any typographical errors, misinformation, or misprints, and shall be held totally harmless from any damages arising from reliance upon this data. © 2017 Multiple Listing Service of Northwest Wyoming Board of REALTORS®, Inc."

### **Section 17.9 Suspicious activity reported**

If an IDX Participant suspects "scraping" of the data or any other wrongful activity has occurred, the Participant must report the suspicion and any evidence to the service immediately for investigation and action.

### **Section 17.10 Compliance with rules**

An IDX Participant must make changes to an Internet site necessary to cure a violation of these rules within ten business days of notice from the service of the violation. Due process procedures as noted in Section 10 "Enforcement of Rules and Disputes" shall apply.

### **Section 17.11 No Disclosure**

**No portion of the IDX database shall be used or provided to a third party for any purpose other than those expressly provided for in these rules.**

### **Section 17.12 Third party contractors**

Any IDX Participant using a third party to develop or design its web site must have a written agreement with that third party in the form prescribed by service. (Exhibit "E")

Effective Dates/Implementation of New and Amended Policies

That MLS Policy Statement 7.51, Effective date of Changes in Multiple Listing Policy, Handbook on Multiple Listing Policy, be revised as follows:

To ensure consistent, uniform understanding of and compliance with the multiple listing policies of the National Association, all changes incorporated into the National Association's Handbook on Multiple Listing Policy become effective January 1 of the year following their approval by the NAR Board of Directors of the National Association of REALTORS®. Unless specifically provided otherwise by the NAR Board of Directors, associations and multiple listing services shall have sixty (60) days from their effective date of new or amended policies to adopt them locally.

The following guidelines are recommended but not required to conform to National Association policy. MLSs may:

1. prohibit display of expired, withdrawn, or sold listings. \* (Amended 11/14)  
  
\*Note: If "sold" information is publicly accessible, display of "sold" listings may not be prohibited. (Adopted 11/14)
2. prohibit display of confidential information fields intended for cooperating brokers rather than consumers including compensation offered to other MLS Participants, showing instructions, property security information, etc.
3. prohibit display of the type of listing agreement, e.g., exclusive right to sell, exclusive agency, etc.
4. prohibit display of seller's(s') and occupant's (s') name(s), phone number(s), and e-mail address(es)
5. require that the identity of listing agents be displayed
6. require that any display of other Participants' listings indicate the source of the information being displayed
7. require that other brokers' listings obtained from other sources, e.g., from other MLSs, from non-participating brokers, etc., display the course from which each such listing was obtained.
8. require Participants to indicate on their websites and in any other IDX display that the information being provided is for consumers' person, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing (Amended 5/12)
9. establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to an inquiry. Such number shall be determined by the MLS, but in no instance, may the limit be fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is less. (Amended 11/17)
10. limit the right to display other Participants' listings to a Participant's office(s) holding participatory rights in the same MLS.

11. require a notice on all MLS data displayed indicating that the data is deemed reliable but is not guaranteed accurate by the MLS. Participants' IDX sites and displays may also include other disclaimers necessary to protect the Participant and/or the MLS from liability. (Amended 05/12)

This policy acknowledges that the disclosures required under Subsections 5,6,7, 8,9, and 12 (above) may not be possible in displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of 200 characters or less) or for audio delivery of listing content. Minimal displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from the disclosure requirements only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.

Additional Local Issues/Options:

1. Where MLS participatory rights are available to non-member brokers or firms as a matter of law or local determination, the right to IDX display of listing information may be limited, as a matter of local option, to Participants who are REALTORS®. (Amended 05/12)
2. MLSs may, but are not required to, limit the right to display listing information available pursuant to IDX to MLS Participants licensed as Wyoming real estate brokers.
3. MLSs may, but are not required to, limit the right to display listing information pursuant to IDX to MLS Participants engaged in real estate brokerage. (Amended 11/09)
4. MLSs may, but are not required to, allow non-principal brokers and sales licensees affiliated with MLS Participants, such use is subject to the affiliated Participants' consent and control and the requirements of state law and/or regulation, and MLS rules. (Amended 05/12)

Even if use of information through IDX is provided to non-principal brokers and sales licensees affiliated with MLS Participants, such use is subject to the affiliated Participants' consent and control and the requirements of state law and/or regulation, and MLS rules. (Amended 05/12)

5. MLSs cannot prohibit Participants from downloading and displaying or framing other brokers' listings obtained from other sources, e.g., other MLSs, non-participating brokers, etc., but can, as a matter of local option, require that listings obtained through IDX feeds from REALTOR® Association MLSs be searched separately from listings obtained from other sources. (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)

6. MLSs may, as a matter of local option, charge the costs of adding or enhancing their downloading capacity to Participants who will download listing information. Assessment of such costs should reasonably relate to the actual costs incurred by the MLS. (Amended 11/06)
7. MLSs may prohibit advertising controlled by Participants (including co-branding) on any pages displaying IDX-provided listings.

MLSs permitting advertising (including co-branding) on pages displaying IDX-provided listings may prohibit deceptive or misleading advertising (including co-branding). For purposes of this provision, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information is larger than that of any third party. **M**

#### **New MLS Policy Statement 7.99, Digital Millennium Copyright Act, Safe Harbor:**

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

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

To qualify for this safe harbor, the OSP must:

- (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. I

**Note:** The same language is added to Section 11, Ownership of MLS Compilation and Copyright section of the NAR model MLS Rules and Regulations (all types), found in the Handbook on Multiple Listing Policy.

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## **Section 18 – LOCK BOX SYSTEM**

- a. **DESIGNATION OF THE LOCK BOX SYSTEM:** The lock box system for the Northwest Wyoming Board of REALTORS® shall be designated as an activity of the Northwest Wyoming Board of REALTORS®, and the administration of the lock box system shall be delegated to the Board's Multiple Listing Service.
- b. It is hereby noted that all keys referenced in regard to lockbox rules can be deactivated within thirty (30) days. (revised 01/05)

**Section 18.1 – LOCK BOX SECURITY REQUIREMENTS** for coverage under NAR's blanket errors and omissions insurance program.

MLSs may, as a matter of local option, require placement of an MLS approved lockbox on listed properties if any device giving access to real estate professionals and/or service providers is authorized by the seller and occupant and is placed on the property. The purpose of this requirement, if adopted by an MLS, is to ensure cooperating Participants and subscribers have timely access to listed properties. Requiring that a lockbox or other access device be "MLS-approved" does not limit the devices that satisfy the requirement to lockboxes leased or sold by an association or MLS. The MLS may require that the devices be submitted in advance for approval, and the access device may be any lockbox or other access device that provides reasonable, timely access to listed property. The MLS also may revoke the approval and/or subject the Participant to discipline if the device is used in a manner that fails to continue to satisfy this requirement.

- Any physical or electronic key, programmer or other device (hereinafter referred to as "key") by which a lock box can be opened must be non-duplicative. Being "non-duplicative" means that it cannot be readily copied in the manner that other types of keys ordinarily are. (Amended 05/17)

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

to the lockbox. (Adopted 05/17).

As a matter of local discretion, the listing broker or agent can issue temporary codes/access to the lockbox and property on terms and conditions agreed to in advance by the seller. Temporary codes/access must expire within seventy-two (72) hours after being issued or must be under the control of the listing broker or agent. Temporary codes must be a minimum field size of five (5) characters (XXXXX). (Adopted 05/17).

- **Security protocols.** 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, associations and MLSs must obtain sufficient information from the original manufacturer and surrounding associations and MLSs in order to determine whether the key's pattern, code or configuration is already in use. (Amended 05/17)

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

- where an unauthorized user can override or escalate their security credentials
- where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access
- forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user
- digitally signed updates to electronic keys running on mobile devices or electronic lockbox firmware plus a secured update process to prevent unauthorized software from being introduced into the lockbox system
- transmission(s) of frequencies to deceive the lockbox electronics into opening (Adopted 05/17)

Associations shall adopt written, reasonable, and appropriate rules and procedures for administration of lockbox systems which may include appropriate fines, not to exceed \$15,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association and set forth in the rules and procedures. All key holders, whether association members or not, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lockbox system.

## **Section 18.2-ELIGIBILITY FOR LOCK BOXES AND KEYS:**

**Availability of lockbox system and keys.** Any lockbox system must be designated as either an activity of an association of REALTORS® or an association-owned and operated MLS. (Amended 05/17).

- a) If the lock box system is an activity of an association-owned and operated multiple listing service, then every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS. (12/2011)
- b) If the lockbox system is an activity of an association-owned and operated MLS, then every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.

As a matter of local discretion, associations and MLSs can determine that key lease agreements executed by non-principal brokers, sales licensees, unlicensed personal assistants, administrative and clerical staff and licensed certified or those seeking to be licensed or certified as appraisers must also be cosigned by the Designated REALTOR® or the office's broker of record. Lease agreements shall spell out the responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the association or MLS that relate to the operation of the lockbox system. The lease agreement shall also provide that keys may not be used under any circumstances by anyone other than the keyholder except as provided elsewhere in this statement of policy. (Amended 05/17).

- c) Licensed secretaries that have signed a Secretarial Affidavit with the Northwest Wyoming Board of REALTORS® shall be ineligible to hold a lock box key or utilize the lock box system. (02/2003)

### **18.3- KEY LEASE AGREEMENT**

- a. Key lease agreements executed by non-principal brokers, sales licensees, and licensed or certified appraisers will be cosigned by the Participant
- b. All lease agreements shall contain the following pertinent information:
  1. Shall spell out all responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the Board or MLS that relate to the operation of the lock box system.
  2. Shall state that keys may not be used under any circumstances by anyone other than the key holder.
  3. Shall state that no one shall be required to lease a key from the Board except on a voluntary basis.
  4. Shall have a liquidated damages provision to offset some or all of the Board's costs for lost or unaccounted for equipment and/or in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the key holder.

5. Shall indicate the amount of the initial deposit paid, if any, and state what portion of this deposit shall be refunded to the key holder upon return of the key to the Board.
6. All lock box system users, whether Northwest Wyoming Board of REALTORS® members or not, shall agree, as a condition of the lease agreement, to be bound by the rules and procedures governing the operation of the lock box system.

#### **18.4 – SUSPENSION AND/OR TERMINATION FROM THE LOCK BOX SYSTEM**

- a. The Northwest Wyoming Board of REALTORS® Multiple Listing Service may refuse to lease lockbox keys and boxes, may terminate existing lease agreements, deactivate or refuse to activate or reactivate any key held by an individual upon their suspension or termination from a Board of REALTORS® or the Northwest Wyoming Board of REALTORS® Multiple Listing Service.
- b. The Northwest Wyoming Board of REALTORS® Multiple Listing Service at the direction of the Northwest Wyoming Board of Directors may refuse to lease lock box keys and boxes, may suspend and/or terminate existing lease agreements, deactivate, or refuse to activate or reactivate any key held by an individual in the event of non-compliance with a Lock Box System Audit.  
(08/03)
  1. A Participant shall be considered in non-compliance in the event that either of the following occurs: (1) All information on the Key Box/Shackle Code Master List is not provided on the date of the audit, or (2) Failure to return equipment to auditors upon request. (08/03)
  2. A \$100 key reactivation fee may, at the discretion of the Northwest Wyoming Board of Directors, be charged to any non-complying office.  
(08/03)

Associations and MLSs may, at their discretion, lease keys to affiliate members of associations who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the lease agreement shall be signed by the keyholder and by a principal, partner, or corporate officer of the keyholder's firm. (Amended 05/17)

Individuals may be required to pay lockbox costs as part of association dues or as part of MLS participation fees pursuant to MLS Policy Statement 7.57, Categorization of MLS Services, Information and Products and pursuant to NAR Bylaws Official Interpretation #32. No one shall be required to lease a key from the association except on a voluntary basis. (Adopted 05/17).

Associations and MLSs may refuse to sell or lease lockbox keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 05/17)

- A. The association or MLS determines that the conviction(s) relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts; and (Amended 05/17)

B. The association or MLS gives the individual an opportunity to provide and the association or MLS must consider mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:

- the individual's age at the time of the conviction(s);
- nature and seriousness of the crime;
- extent and nature of past criminal activity;
- time elapsed since criminal activity was engaged in;
- rehabilitative efforts undertaken by the applicant since the conviction(s);
- facts and circumstances surrounding the conviction(s); and
- evidence of current fitness to practice real estate (Amended 05/17)

Associations and MLSs should be sure to evaluate individuals uniformly and avoid making exceptions for one individual while denying an exception to another individual with a similar criminal history. (Amended 05/17).

Association or MLSs may suspend the right of lockbox keyholders to use lockbox keys following their arrest and prior to a final determination on any such charge if, in the determination of the association or MLS, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals or property at risk. (Amended 05/17).

### **Section 18.5 – RECORD KEEPING:**

**1. Audit requirement:** Associations or MLSs shall maintain current records as to all keys issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. There shall be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or, alternatively, by receipt of a statement signed by the keyholder and the Designated REALTOR<sup>®</sup>, broker or record, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the keyholder's firm, attesting that the key is currently in possession of the keyholder. (Amended 05/17).

- a. A current record as to all keys and boxes issued and in inventory shall be maintained.
- b. There shall be an audit, at least annually, of all keys and lock boxes whether issued or in inventory. This requirement may be satisfied by one of the following:
  1. Physical inventory: At the time of the audit, each office shall provide a completed key box/shackle code master list including MLS#, key box # and current key box address of listing. All boxes not on a listed property at the time of the audit shall be made available to the audit committee and may be collected if deemed necessary as directed

and approved by the Directors of the Northwest Wyoming Board of REALTORS®.

2. By receipt of a statement signed by each keyholder and the Designated REALTOR® or broker of record attesting that the key is currently in the possession of the keyholder and that all lock boxes assigned to them are accounted for.

If, at the time of inventory, a key is unaccounted for, or if a keyholder refuses or is unable to demonstrate that the key is within their physical control, then the key will be considered unaccounted for and any funds on deposit will be forfeited to the association.

Deposits for electronic programmers or electronic keycards which are leased but which can be deactivated within thirty (30) days may be required as a matter of local determination. (Adopted 11/95).

**2. Seller authority required.** Lockboxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or any other written document. Inclusion in MLS compilations cannot be required as a condition of placing lockboxes on listed property. (Amended 05/17)

**3. Reporting missing keys.** Associations or MLSs must charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the association or MLS. Upon receipt of notice, the association or MLS must take any steps deemed necessary to resecure the system. (Amended 05/17).

**4. Rules and procedures governing lockbox systems.** Associations and MLSs must adopt written, reasonable and appropriate rules and procedures for administration of lockbox systems which may include appropriate fines, not to exceed \$15,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association or MLS and set forth in the rules and procedures. All keyholders, whether or not they are association members or MLS Participants shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lockbox system. (Amended 05/17).

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

**5. Issuing electronic programmers or keypads on temporary basis.** In the event electronic lockbox programmers or keypads are sold or leased, a Designated REALTOR® principal or an office's broker of record may purchase or lease additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the issuing association or MLS. When a programmer or keypad is issued on a temporary basis, it shall be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing that the programmer or keypad has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the

REALTOR® principal or the broker of record to advise the association or MLS in writing within two (2) business days after possession of the previously issued programmer or keypad has been reassumed. (Adopted 05/17).

**6. Requiring “approved” lockbox systems.** As a matter of local discretion, associations and MLSs may require placement of an “approved” lockbox on listed properties if any device giving access to real estate professionals or service providers is authorized by the seller and occupant and is placed on the property. The purpose of this requirement, if adopted by an association or MLS, is to ensure cooperating Participants and subscribers have timely access to listed properties. Requiring that a lockbox or other access device be “approved” does not limit the devices that satisfy the requirement to lockboxes leased or sold by an association or MLS. The association or MLS may require that the devices be submitted in advance for approval, and the access device may be any lockbox or other access device that provides reasonable, timely access to listed property. The association or MLS also may revoke the approval or subject the Participant to discipline if the device is used in a manner that fails to continue to satisfy this requirement. (Adopted 05/17).

#### **Section 18.6 – RETURN OF LEASED EQUIPMENT**

a. All leased equipment shall be returned to the Northwest Wyoming Board of REALTORS® immediately upon termination of MLS Membership. Failure to return said equipment shall result in the Participant being charged all cost associated with replacing said equipment. (02/2003)

#### **Section 18.7 – REPORTING LOST EQUIPMENT:**

- a. The Board shall charge key holders and their co-signatories with the joint obligation of immediately reporting lost, stolen or otherwise unaccountable equipment to the Board. Upon receipt of notice, the Board shall take any steps deemed necessary to re-secure the system. (02/2003)
- b. If at the time of inventory, a key or lock box is unaccounted for, or if a lock box system user refuses or is unable to demonstrate that the equipment is within their physical control, then the equipment will be considered unaccounted for.

#### **Section 18.8 -PLACEMENT OF LOCK BOXES**

- a. 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 this purpose. (02/2003)

#### **Section 18.9 – KEY AND LOCK BOX DEPOSITS**

- a. Deposits are currently not required.
- b. In the future, if deposits are required the lock box deposit formula established under the NAR Lock Box Security Requirements will be implemented by the following:

- (1) Any funds accepted by the Northwest Wyoming Board of REALTORS® or its MLS as deposits for lock box keys or lock boxes shall be retained by the Board or its MLS in a separate account so that the funds will be available to be refunded to depositors upon return of the lock box key or boxes in working condition to the Board or its MLS. (02/2003)
- (2) The initial deposit shall not be less than \$25 nor more than \$200. Deposits for a first replacement key lost or stolen shall be not less than two (2) times nor more than three (3) times the amount of the initial deposit and not less than three (3) times nor more than four (4) times the amount of the initial deposit for second or additional replacement keys. Deposits for keys shall be kept in a special account for refund upon return of the key unless forfeited upon loss of the key. Notwithstanding the foregoing, deposits charged affiliate members may be no more than twice the amounts established above. (01/08)
 

If, at the time of inventory, a key is unaccounted for, or if a keyholder refuses or is unable to demonstrate that the key is within their physical control, then the key will be considered unaccounted for and any funds on deposit will be forfeited to the association. (01/08)
- (3) All funds identified as deposits are to be retained for this purpose only and are not to be utilized in any other manner. (02/2003)

#### **Section 18.10 – LOCK BOX SYSTEM FEES**

- a. LOCK BOX KEY DEPOSIT – Shall be equal to the actual cost of the key. (02/2003)
- b. MAINTENANCE FEE: A fee not to exceed \$20.00 shall be charged at the time of application. This fee shall be utilized for the cost of maintenance and repair of the lock boxes and keys and any postage fees associated thereof. (02/2003)
- c. MONTHLY SYSTEM FEE –MONTHLY LOCK BOX DATABASE FEE: Every Sentrilock card holder of the Northwest Wyoming Board of REALTORS® Multiple Listing Service shall be charged a monthly lockbox data maintenance fee for the use of the system as set forth in the MLS Fee Scheduled (Exhibit “A”) (04/2007)
- d. All new members joining the MLS of the Northwest Wyoming Board of REALTORS® after June 1, 2003, shall be charged a \$200 lock box system fee for the operation and maintenance of a lock box system. \$100 shall be payable at the time of the application with the second \$100 to be payable on or before December 15<sup>th</sup>. (5/03)

## **Section 18.11 – Damaged Equipment**

- a. Participants shall be responsible for all costs associated with the damaged lockboxes and lockbox keys. (09/05)
- b. Participants shall be responsible for all costs associated with drilling out the key box of any lock box, if necessary, to retrieve property keys. (09/05)

### **MLS Rules Related to Virtual Office Websites ("VOWs") (Revised 11/03/2008)**

**Section 19.1 (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 Wyoming broker or Wyoming sales licensee affiliated with a Wyoming-licensed 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 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 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 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 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 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 19.6 (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.

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

**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.

**Note: Adoption of Sections 19.15 –19.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on Participants’ use of MLS Listing Information in providing brokerage service through all other delivery mechanisms.**

**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 and 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.
- f. Sold information (O)

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

**(Important Note:** If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15 (f) must be omitted.)

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

**Section 19.19:** A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 current listings and not more than 0 sold listings in response to any inquiry.

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

**Note: Adoption of Sections 19.20–19.25 is at the discretion of the MLS. It is not required that equivalent requirements be established related to other delivery mechanisms.**

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

**Section 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 their listing broker to withhold either the seller’s listing or the address of the seller’s listing from display on the Internet, a copy of the seller’s affirmative direction shall be provided to the MLS within 48 hours.

(11.03.08)

## FEE SCHEDULE

Initial MLS Office Participation Fee:	\$695.00 (see section 6a) Additional \$75 charge to be assessed if office wants to have Navica offline access.
MLS Office Reinstatement Fee	\$50.00 (See Section 6 (b))
MLS Reinstatement Fee for Suspended	Participant for non-payment \$25 per listing for "active or pending" (see sect.6(c) (04/2002)
No photo or appropriate document **	\$100.00 per listing uploaded with no photo uploaded to MLS Service within 7 days (billed to broker) **Appropriate document may be a photo, clipart or drawing. It does not include scanned blank pages or photos/clipart that does not depict the actual property listed on the MLS. ++
Monthly MLS Participation Fee	\$40.00 for 2018 times the number of active licensees associated with Participant – (see section 6d) except those with signed secretarial affidavit.
Monthly MLS Participation Fee for Non-MLS Members	2 ½ times the current fee for NWBOR members
MLS Lock Box Operation and Maintenance Fee	\$220.00 for those joining after 6/1/03 - \$120 due at time of application & \$100 billed with next yrs. Board dues (Sec. 17.10b and d)
Monthly Sentrilock Database Maint. Fee	\$7.00/month per active Sentrilock holder
MLS Lock Box Key Deposit	None
Lost, stolen or damaged Lock Box Key:	Actual cost of replacement (02/2003)
Lost, stolen or damaged Lock Box	Actual cost of replacement (02/2003)
MLS Participant changing name of firm	\$50.00 (nothing but name changes)
Sold Book for Affiliate Member	\$225.00/each Quarterly Sold Book
Ads within newsletters	\$20.00 per ad per month.
Licensed secretaries, exempted from paying monthly MLS fees, found deriving income from the sale or rental of real estate.	Retroactive charges for the period of time their fees were exempted.
Customization of IDX:	All customization costs to be paid up front. Participant shall also pay the Northwest Wyoming Board of REALTORS® a \$100.00 setup fee and \$50.00 each year thereafter. (07/05)

++ Under NAR policy, sellers may opt out of having photographs or other graphic representations of their properties submitted to the MLS.

**(EXHIBIT B-1)**  
**NORTHWEST WYOMING BOARD OF REALTORS®**  
**MULTIPLE LISTING SERVICE PARTICIPATION AGREEMENT**  
**(SUBSCRIBER) (Amended 02/2003)**

Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Subscriber Name (print): \_\_\_\_\_

Board/Association where primary membership is held: \_\_\_\_\_

\_\_\_\_\_

Wyoming Real Estate License # \_\_\_\_\_

I agree as a condition of participation in the Northwest Wyoming Board of REALTORS® Multiple Listing Service to abide by all relevant Rules and Regulations and other obligations of participation, including payment of fees. I further acknowledge that my failure to abide by said Rules and/or to pay all fees will subject me and my broker to discipline and possible suspension from the Multiple Listing Service.

I further agree to be bound by the Code of Ethics as established in the Code of Ethics and Arbitration Manual, including the obligation to submit to ethics hearings and the duty to arbitrate contractual disputes with other REALTORS® in accordance with the established procedures of the Board. I understand that a violation of the Code of Ethics may result in suspension or termination of MLS rights and privileges and that I may be assessed an administrative processing fee not to exceed \$500 which may be in addition to any discipline, including fines, that may be imposed.

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of NWBOR Executive Officer

\_\_\_\_\_  
Date

**(EXHIBIT B-2)**  
**NORTHWEST WYOMING BOARD OF REALTORS® MULTIPLE LISTING SERVICE**  
**PARTICIPATION AGREEMENT (Amended 02/2003)**

Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Participant Name (print): \_\_\_\_\_

Board/Association where primary membership is held: \_\_\_\_\_

\_\_\_\_\_

Wyoming Real Estate License # \_\_\_\_\_

I agree as a condition of participation in the Northwest Wyoming Board of REALTORS® Multiple Listing Service to abide by all relevant Rules and Regulations and other obligations of participation, including payment of fees. I further acknowledge that my failure to abide by said Rules and/or to pay all fees will subject me and my broker to discipline and possible suspension from the Multiple Listing Service.

I further agree to be bound by the Code of Ethics as established in the Code of Ethics and Arbitration Manual, including the obligation to submit to ethics hearings and the duty to arbitrate contractual disputes with other REALTORS® in accordance with the established procedures of the Board. I understand that a violation of the Code of Ethics may result in suspension or termination of MLS rights and privileges and that I may be assessed an administrative processing fee not to exceed \$500 which may be in addition to any discipline, including fines, that may be imposed.

As the Participant (Responsible Broker) of the above-named firm I am also aware that I am ultimately responsible and accountable for all subscribers affiliated with my firm.

I certify to the Northwest Wyoming Board of REALTORS® that the Participation fee has been paid for my firm and acknowledge that said fee is non-transferable.

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

-----  
Signature of NWBOR Executive Officer

-----  
Date

**EXHIBIT C**  
**SECRETARIAL AFFIDAVIT** (Amended 02/2003)

This AGREEMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_, by and between \_\_\_\_\_ (hereinafter referred to as the "Agent") \_\_\_\_\_, who is the Designated REALTOR® for the real estate office of \_\_\_\_\_ (hereinafter referred to as the "Office").and the Northwest Wyoming Board of REALTORS® -- Multiple Listing Service (hereinafter referred to as "NWWYBOR").

WHEREAS, the Agent is licensed with the Office and desires to obtain a computerized copy of the Multiple Listing Service (hereinafter referred to as "MLS") database compilation

NOW, THEREFORE, for the consideration of Ten Dollars (\$10.00) in hand paid by the Office to NWWYBOR and the promises and covenants contained herein, the parties hereto do state and agree as follows:

1. The Agent works as an office assistant at the Office and neither actively lists or sells real estate and does not receive compensation as a result of real estate transactions or property management. The Agent further covenants and represents that he/she will not place any listings or sell any real estate as a real estate agent, (nor will the Agent obtain a lock box key.)
2. For this reason, the MLS will provide a computerized MLS database compilation to the Office for the Agent at no cost. If at any time the Agent begins to actively list or sell real estate or be compensated as a result of a real estate transaction or property management, the broker and the Agent will notify the NWWYBOR so the compilation sold to the Office for the Agent may be charged accordingly.
3. If the Office or the Agent fails to advise the NWWYBOR of the Agent's active list or sale of real estate or the Agent's compensation as a result of a real estate transaction or property management, the Office shall be assessed the full monthly fee for the computerized copy of the MLS Data Base for the entire period that the Agent has been licensed with the Office.

4. An Office receiving a Printed Book MLS Compilation for their agent signing this Secretarial Affidavit will be charged the actual cost of the book based upon the invoice the NWWYBOR receives.
5. The Agent and Designated REALTOR® of the Office both hereby agree to terms and conditions and terms outlined herein.

Dated this: \_\_\_\_\_ day of: \_\_\_\_\_ 20 \_\_.

Agent: \_\_\_\_\_

Broker: -----

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NWWYBOR by: \_\_\_\_\_

**Exhibit “D”  
Customization of I.D.X**

**I.D.X. Fields required to be displayed**

Residential: Price, bedrooms, Total bathrooms, garage/type stalls, total sq. ft., city, listing #, acres, lot size, and Name of Listing Firm

Multi-family: price, number of units, acres, lot sq. ft, city, listing number, Name of Listing Firm

Farm/ranch with house: price, bedrooms, Total bathrooms, garage/type stalls, total sq. ft, acres, city, listing number, and Name of Listing Firm

Lots/Land – Price, acres, lot sq. ft., city, listing number, Name of Listing Firm

Commercial: Price, total building sq. ft., lot sq. ft., acres, commercial features, business type, city, listing number, Name of Listing Firm

Business Only – Price, Business type, year business started, city, listing number and Name of Listing Firm.

**I.D.X. Fields permitted to be displayed**

Street #  
Street Name  
State  
Zip code  
School District  
# Irrigated Acres  
River/Stream Frontage  
Adj. To Public Land  
Parcelable  
Natural Gas Company  
Electric Company  
Sewer  
Primary Water Type  
Secondary Water Type  
Cooling Type  
Primary Heat  
Secondary Heat  
Primary Fuel Type  
Secondary Fuel Type  
Seller financing information  
Disclosures Y/N  
Co-List Agent Y/N  
Co-List Agent Name  
Other Building information  
Additional Structures  
Garage/type stalls in Multi-Family  
Bath information (full, half & ¾)  
Approx. year built  
Above grade sq. ft.  
Below grade sq. ft.  
Room Grid in all categories  
Unit Grid in Multi-Family  
Irrigation Grid  
Additional Room info  
Inclusions  
Exclusions  
Comments  
House Design  
Construction  
Exterior Siding  
Fireplace type  
Heating Stove type  
Exterior Features  
Interior Features  
Commercial Features  
Basement type & Basement Completion  
Roof

Property Access  
Property type  
Frontage Feet  
Depth Feet  
Equipment & Fixtures Included Y/N  
Inventory List Y/N  
# Restrooms  
#Stories  
Overhead Door Height  
Type of Other Structures  
Parking Availability  
Miscellaneous in Commercial & Business Only  
Unit #  
Approx. Total Sq. Ft. of all Buildings  
Avg. Utility Cost Paid by owner/month  
Soil Type  
Yield Info  
Mobiles Allowed Y/N  
Modulars Allowed Y/N  
Total Leased AUMS  
County  
Topography  
Property Features  
Type Lease land  
Current Business Name

**I.D.X. Confidential Fields That Can Not Be Displayed**

Owner of Record Name  
Property Rights  
County Tax ID  
List Date  
Expiration Date  
Legal Description  
Subdivision  
Title Company  
Personal Property Tax Year  
Personal Property Tax  
Tax Year  
Tax Total  
Taxed with other land  
Drainage Fees  
Drainage Fee Year  
Assessment, Special Assessments, HOA, Irrig. Fees, & Other  
Possession  
Key Location  
Occupancy  
Avg. monthly Utilities (sewer, gas, water, electric, garbage)  
Any field relating to commission  
Bonus  
Subject to 1031  
Showing Instructions  
Excluded Buyers  
Excluded offices & agents  
Exclusive Agency Listing  
Internet Y/N  
Agent Instructions  
Directions to Property  
Zoning  
Area  
Neighborhood  
Sold Price  
Closing Date  
Selling Office  
Selling Agent  
Financing  
Status  
Concessions  
Equipment/fixtures value  
Inventory Value  
Date of Inventory  
Current Lease \$  
Lease Expire Date  
Lease Info  
Description of Licenses/Permits  
Annual Insurance  
Insurance Year

## EXHIBIT "E"

### Northwest Wyoming Board of REALTORS®, Inc. IDX Data Access Agreement

This AGREEMENT is made and entered into by Northwest Wyoming Board of REALTORS®, Inc. ("NWWYBOR"), with offices at \_\_\_\_\_; \_\_\_\_\_ ("Firm"), with offices at \_\_\_\_\_; and \_\_\_\_\_ ("Consultant"), with offices at \_\_\_\_\_.

#### DEFINITIONS

1. For purposes of this Agreement, the following terms shall have the meanings set forth below.

**Confidential Information:** "Confidential Information" means information or material proprietary to NWWYBOR or designated "confidential" by NWWYBOR and not generally known to the public that the other parties may obtain knowledge of or access to as a result of this Agreement. Confidential Information includes, but is not limited to, the following types of information (whether in oral, visual, audio, written or other form): (a) all NWWYBOR Data, except to the extent to which this Agreement and the NWWYBOR Policies permit its disclosure; (b) IP addresses, access codes and passwords; (c) any information that NWWYBOR obtains from any third party that NWWYBOR treats as proprietary or designates as Confidential Information, whether or not owned or developed by NWWYBOR; and (d) any information designated as confidential or private from time to time by any applicable state, federal, local or other law, regulation or directive. Confidential Information does not include information that is or becomes publicly available by other than unauthorized disclosure by the receiving party; independently developed by the receiving party; received from a third party who has obtained and disclosed it without breaching any confidentiality agreement; or already possessed by the receiving party at the time of its disclosure.

**Data Interface:** The transport protocols and data storage formats provided by NWWYBOR for use by Firm and Consultant; NWWYBOR may modify the Data Interface in its sole discretion from time to time.

**Firm Affiliates:** The employees of Firm who are not licensed real estate agents; broker/managers and licensed real estate agents affiliated with Firm who are Subscribers of NWWYBOR; and Consultant, if any.

**IDX:** Use and display of portions of the NWWYBOR Data under the Internet Data Exchange provisions of the NWWYBOR Policies.

**NWWYBOR Data:** Data relating to real estate for sale, previously sold, or listed for sale and data relating to Subscribers (including text, photographs, and all other data formats now known or hereafter invented) entered into NWWYBOR's databases by Subscribers and NWWYBOR, or on their behalf.

**NWWYBOR Policies:** The Rules and Regulations of NWWYBOR, as amended from time to time, and any operating policies relating to the NWWYBOR Data and IDX program promulgated by NWWYBOR.

**Subscriber:** Any licensed real estate broker who is a Participant (as the term is defined in the NWWYBOR Policies) together with salespersons and broker associates licensed to the Participant, for whom the Participant is responsible under the laws of the State of Wyoming, licensed or certified real estate appraisers, 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.

#### NWWYBOR'S OBLIGATIONS

2. During the term of this Agreement, NWWYBOR grants to Firm a non-exclusive, world-wide license to make copies of, display, perform, and make derivative works of the NWWYBOR Data, only to the extent expressly permitted by and subject at all times to the terms and restrictions of this Agreement; any other use of the NWWYBOR Data is hereby prohibited. All licenses hereunder shall terminate upon the termination of this Agreement. This Agreement is a non-exclusive license, and not a sale, assignment, or exclusive license. NWWYBOR retains all rights not expressly granted herein.

3. During the term of this Agreement, NWWYBOR agrees to provide to Firm and Consultant (a) access to the NWWYBOR Data via the Data Interface under the same terms and conditions NWWYBOR offers to other Subscribers; (b) seven days' advance notice of changes to the Data Interface; and (c) seven days' advance notice of changes to the NWWYBOR Policies.

#### FIRM'S OBLIGATIONS

4. Firm shall comply with the NWWYBOR Policies at all times. In the event of any perceived conflict between the NWWYBOR Policies and this Agreement, the NWWYBOR Policies shall prevail and govern.

5. Firm shall use the NWWYBOR Data obtained under this Agreement for IDX only. Any other use is strictly prohibited. Firm shall not make the NWWYBOR Data or the Confidential Information available to any third party unless expressly authorized to do so under this Agreement.

6. Firm acknowledges that NWWYBOR possesses all right, title, and interest in all copyrights in the NWWYBOR Data.

7. Firm acknowledges that NWWYBOR provides the NWWYBOR Data on an as-is, as-available basis. NWWYBOR shall not be liable to Firm for any claim arising from inaccuracies in the NWWYBOR Data or from any failure to update the data promptly.

8. If NWWYBOR notifies Firm of a breach of the NWWYBOR Policies or this Agreement and Firm does not immediately cure such breach, NWWYBOR may seek cure from the Consultant. Firm shall hold Consultant harmless from any liability arising from Consultant's cooperation with NWWYBOR under this paragraph.

9. Firm shall display the NWWYBOR copyright notice on each display screen, web page (whether Internet or Intranet based), and printout displaying NWWYBOR Data. The NWWYBOR copyright notice may take the following form: "Copyright 2005 Northwest Wyoming Board of REALTORS®, Inc."

10. Firm shall pay the initial and periodic fees, if any, that NWWYBOR customarily charges other Subscribers for data access. Firm acknowledges receipt of NWWYBOR's current schedule of such fees, if any. NWWYBOR may in its sole discretion establish or modify its schedule of fees upon 30 days' written notice to Firm.

11. Firm shall stand as surety for Consultant's performance under this Agreement.

### **CONSULTANT'S OBLIGATIONS**

12. Consultant shall immediately correct any breach of this Agreement or violation of the NWWYBOR Policies within its control upon notice from NWWYBOR.

13. Consultant acknowledges that NWWYBOR possesses all right, title, and interest in all copyrights in the NWWYBOR Data.

14. Consultant shall not make the NWWYBOR Data or the Confidential Information available to any third party, except on behalf of Firm and in a manner consistent with Firm's obligations under Paragraphs 4 through 11 of this Agreement.

15. Consultant shall notify NWWYBOR within five business days of any change to the information relating to it in this Agreement, including change of its corporate name or address.

### **CONFIDENTIAL INFORMATION**

16. Firm and Consultant shall protect the Confidential Information with the same degree of care they take to protect their own sensitive business information of like kind, but in no event less than reasonable care. A party may disclose Confidential Information if such disclosure is required by law, court order or regulation; provided, however, that such party makes commercially reasonable efforts to notify NWWYBOR in writing in advance of such disclosure.

17. Within five days after the termination of this Agreement, the receiving party shall return to NWWYBOR all Confidential Information and materials provided by NWWYBOR to the receiving party. The receiving party shall also erase or destroy Confidential Information stored on magnetic media or other computer storage, including system backups. Upon NWWYBOR's request, an officer of the receiving party shall certify in writing that all materials have been returned to NWWYBOR or destroyed.

### **TERM AND TERMINATION**

18. The term of this Agreement begins on the date that NWWYBOR signs it. This Agreement shall terminate upon the occurrence of any of the following events: (a) immediately upon termination of Firm's privileges as a Subscriber; (b) 30 days after any party's notice to the others of its intent to terminate; (c) 10 days after any party's notice to another that the other has breached this Agreement, provided the breach remains uncured. In the event Firm's privileges as a Subscriber are terminated while this Agreement is in effect and NWWYBOR subsequently reinstates those privileges, this Agreement shall automatically be reinstated if NWWYBOR resumes its obligations under paragraphs 2 and 3.

### **GENERAL PROVISIONS**

19. **Applicable law.** This Agreement shall be governed by and interpreted according to the laws of the State of Wyoming. The parties agree that any action to enforce or interpret this Agreement shall have venue in Park County, Wyoming, and the parties hereby submit to personal jurisdiction in that venue.

20. **Survival of Obligations.** The obligations of Firm set forth under "Firm's Obligations" above and the obligations of Consultant under "Consultant's Obligations" above shall survive the termination or expiration of this Agreement for three years. The "Definitions," "Confidential Information," and "General" provisions of this Agreement shall survive its termination or expiration.

21. **NWWYBOR's Remedies.** Because of the unique nature of the NWWYBOR Data and Confidential Information, Firm and Consultant acknowledge that NWWYBOR would suffer irreparable harm in the event that either of them breaches its obligations under this Agreement, and that monetary damages would be inadequate to compensate NWWYBOR for a breach. NWWYBOR is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Firm or Consultant or any one of them, without showing or proving any actual damages sustained by NWWYBOR, and without posting any bond.

22. **Limitation of liability/exclusion of warranties. IN NO EVENT SHALL NWWYBOR BE LIABLE TO FIRM OR CONSULTANT FOR DAMAGES OF ANY KIND WHATSOEVER ARISING FROM ANY BREACH OF THIS AGREEMENT, INCLUDING INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES; FIRM'S AND CONSULTANT'S SOLE REMEDIES AGAINST NWWYBOR HEREUNDER SHALL BE TERMINATION OF THIS AGREEMENT.**

**IN NO EVENT SHALL THE LIABILITY OF NWWYBOR ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT FIRM HAS PAID UNDER THIS AGREEMENT TO NWWYBOR IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE LAST EVENT GIVING RISE TO SUCH CLAIM.**

**NWWYBOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT.**

23. **Attorney's fees.** If any party prevails in any action, proceeding, or arbitration to enforce or interpret this Agreement or any provision hereof, it shall be entitled to its reasonable attorney's fees and costs for such legal action.

24. **Indemnification.** In the event any party breaches any provision of this Agreement, that party (the Indemnifying Party) shall indemnify the other parties, their subsidiaries and affiliated companies, and all their respective employees, directors, agents, and authorized successors and assigns (the Indemnified Parties), against any and all losses, damages, and costs (including reasonable attorneys' fees) arising from each claim of any third party resulting from the Indemnifying Party's breach. The Indemnified Parties shall (a) promptly notify the Indemnifying Party in writing of any claim and give the Indemnifying Party the opportunity to defend or negotiate a settlement of any such claim at the Indemnifying Party's expense, and (b) cooperate fully with the Indemnifying Party, at the Indemnifying Party's expense, in defending or settling any such claim.

25. **Notice.** All notices to be given under this Agreement shall be mailed, sent via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth herein or such other address of which any party may advise the others in writing during the term of this Agreement; and shall be effective the earlier of the date of receipt or three days after mailing or other transmission.

26. **No Waiver.** No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.

27. **No Assignment.** No party may assign or otherwise transfer any of its rights or obligations under this Agreement to any other party without the prior written consent of all other parties to this Agreement, which consent may be withheld for any reason or for no reason at all. Any purported assignment or delegation in contravention of this paragraph is null and void *ab initio*.

28. **Entire Agreement.** Subject to NWWYBOR Policies, this Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings, whether oral or written, relating to the same subject matter.

29. **Relationship of the Parties.** The relationship of NWWYBOR to the other parties hereunder is that of independent contractors. No party shall be deemed to be the agent, partner, joint venturer, franchisor or franchisee, or employee of NWWYBOR or have any authority to make any agreements or representations on the behalf of NWWYBOR. Each party shall be solely responsible for the payment of compensation, insurance, and taxes of its own employees.

30. **Severability.** Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. In the event that any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the parties, the invalid or unenforceable provision shall be replaced, if possible, with a valid provision which most closely approximates the intent and economic effect of the invalid provision.

Northwest Wyoming Board of REALTORS<sup>®</sup>, Inc.  
 IDX Data Access Agreement  
 Signature Page

<p style="text-align: center;"><b>NOTE:</b></p> <p><b>Under this Agreement, Firm is permitted to work only with the Consultant named here. If Firm chooses to engage a different consultant or additional consultants, Firm must enter into a new version of this agreement with NWWYBOR and each such consultant.</b></p>	<p style="text-align: center;"><b>FIRM</b></p> <p>_____</p> <p>Firm name</p> <p>_____</p> <p>Signature of owner or officer</p> <p>_____</p> <p>Name of owner or officer</p>
<p><b>NWWYBOR</b></p> <p>Northwest Wyoming Board of REALTORS<sup>®</sup>, Inc.</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Name</p> <p>Date: _____</p> <p>(effective date of this Agreement)</p> <p><b>Contact for notices and operations matters</b></p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p> <p>_____</p>	<p style="text-align: center;"><b>CONSULTANT</b></p> <p>Consultant name: _____</p> <p>Signature of owner or officer: _____</p> <p>Name of owner or officer: _____</p> <p>Date: _____</p> <p><b>Contact for notices and operations matters</b></p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email: _____</p> <p>Mailing: _____</p> <p>_____</p>