

Northeast Oklahoma

Board *of*  
**REALTORS**®



Grand Lake REALTORS®

## **MLS Rules and Regulations**

*NAR Approved 05/30/17*

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<sup>1</sup>Pursuant to telephone conversation with NAR on March 12,2020, Section 16 and 17 of the NAR MLS Rules and Regulations do not apply to NEOBR and this is the reason for these sections being omitted.



## **MLS Rules and Regulations**

### **Participation**

Any REALTOR® of this or any other Board who is a principal, partner, corporate office, 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 real estate broker’s license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board MLS is strictly limited to the activities authorized under a Participant’s licensure(s) or certification and unauthorized uses are prohibited. Further none of the foregoing is intended to convey “participation” or “membership” or any right of access to information developed by or published by a Board MLS where access to such information is prohibited by law.

Mere possession of a 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 the 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 any 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.

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 any 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.

## **LISTING PROCEDURES**

**Section 1. Listing Procedures Listings** of real or personal property of the following types, which are listed subject to a real estate broker’s license, and are located within the service area of the Northeast Oklahoma Board of Realtors multiple listing service, and are taken by participants on Listing Agreements Exclusive Right to Sell or Exclusive Representation Contract shall be delivered to the multiple listing service within 5 days after all necessary signatures of seller(s) have been obtained:

- a. residential;
- b. multi-family;
- c. land;
- d. commercial/industrial;
- e. farm & ranch; and
- f. lots

Under the Board of Choice policy, MLS participatory rights shall be available to any Realtor (principle) 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.

The universal access to services component of Board of Choice is to be interpreted as requiring the 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.

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

service. However, the multiple listing service, through its legal counsel:

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

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive representation listing contracts and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other participants of the multiple listing service acting as transaction brokers or single party brokers.

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service.

The different types of listing agreements include:

- exclusive right-to-sell;
- open;
- exclusive representation;
- net; and,
- exclusive right-to-sell subject to auction/sealed bid (Amended 2/17).

The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

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

The exclusive representation listing also authorizes the listing broker, as exclusive representative, to offer cooperation and compensation on blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive representation listings and exclusive right-to-sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive representation and exclusive right-to-sell listings with prospect reservations.

The exclusive right-to-sell subject to auction/sealed bid listing shall be identified in the Public Remarks of the NEOBR electronic data compilation of current listings. (Amended 2/17)

The listing Realtor® indicated in the MLS must be the same as the Realtor identified by the Listing agreement forms as Listing Realtor®.

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

**Note 3:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

### **Section 1.1 Listings Subject to Rules and Regulations of the Service**

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

### **Section 1.2 Detail on Listings Filed with the Service**

A listing agreement or property data form, when filed with the multiple listing service by the listing broker, shall be complete and accurate in every detail which is ascertainable as specified on the property data form.

- a. The majority of information contained on the main list input form is required / mandatory in order for it to be entered into the multiple listing service system.

### **REGARDING EXCLUSIVE RIGHT-TO-SELL SUBJECT TO AUCTION/SEALED BID LISTINGS**

Identify in Public Remarks the property identification to include:

- a. Stating that it is an AUCTION property;
- b. Date and time of auction;
- c. Specify the Public Conditions of the auction;
- d. Identify in Private Remarks;
- e. Co-brokered commission being offered; and,
- f. Other private remarks as appropriate (Amended 2/17).

**Note 1:** All information contained on the main list input form is required and must be accurate on the Listing Agreements.

- **PRIMARY PICTURE** in the multiple listing service must follow Board requirements relating to that PRIMARY PICTURE. The PRIMARY PICTURE OR second picture must be a photo of the front of the house or from the street for identification of the correct property. Multiple Listing Service may, as a matter of local discretion, require submission of a reasonable number of photographs or other graphic representations that accurately

- depict listing property except where sellers expressly direct that photographs of their property not appear in MLS compilations. (Amended 4/16)
- **WATERVIEW PICTURE** in the multiple listing service must follow Board requirements relating to WATERVIEW PICTURE. The WATERVIEW PICTURE must be a photo from the house that accurately depicts the waterview from the listed property. (Amended 2/19).
  - **DOCKS** in the multiple listing service must follow Board requirements relating to DOCKS. When providing this information, it must include whether the DOCK is private, community, and how many slips and if the dock/slip convey with the property. This information is to be provided in the dropdown menu or in the public comments. (Amended 2/19),
  - Additionally, for exclusive right-to-sell subject to auction/sealed bid listings, the word "AUCTION" must be visible on the PRIMARY PICTURE. (Amended 2/17).
  - Additionally, for new construction, the first photo should be a true & accurate representation of the property, updated as construction progresses and labeled with "Under Construction", "Now Available" or "Completed". Current property progression should be noted in the public remarks along with an estimated completion date. (Adopted 6/17).
  - **PROPERTY LOCATION** shall be the physical address/location of the specific property and shall be inputted at the top of the MLS entry. The 911 address or also known as the mailing address shall be inputted in the section described as 911 property address found midway down in the MLS entry. (All 911 mailing addresses will need to be used in any contract for lending purposes). (Amended 2/2019).
  - If 2 listings are entered for the same property, in addition to the address requirements mentioned above if applicable, the alternate MLS numbers must be referenced in the first section of the Public Remarks and the same main photo must be used for both listings. When property is sold, the property listed with the 911-Address in the main fields is to be closed and the alternate listing is to be cancelled. (Amended 5/16).
  - **DIRECTIONS** must start from a central point using street names or numbers and directions (right /left or north/south) to the property.
  - **OWNERS NAME** must be the name as it appears on the Warranty Deed. If the seller refuses to permit their name from appearing on the listing to be disseminated by the Service, the licensee may take the listing providing that the Seller signs the certification that he/she does not desire the listing to include their name. The signed certification must be on a separate page from the Listing Agreement and Property Data Sheet. All certifications must be filed with the NEOBR office prior to entering the listing in the multiple listing service. OWNERS NAME would then include "WAIVER".
  - **LEGAL** must be completed, if too lengthy, show legal in metes and bounds legal in the document area of the main listing form in the multiple listing service system.
  - **LOT SIZES** also must be completed and if a property is Waterfront, then the amount of Waterfront Footage must be included.
  - All Listing Agreements for New Listings will be entered into the system within one (1) business day of marketing a property, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage websites displays (including IDX and VOW), digital communication marketing (email blasts), multi-brokerage listings sharing networks, and applications available to the general public. (Amended 1/2020)M.

- The Board Office will track, by sales associate, those listings that have not been entered within the time frame.
- A list will be sent to the Broker monthly, by sales associate, and a \$1.00 per day fine will be imposed on the sales associate for each day the listing is late.
- The PRIMARY PICTURE must be entered into the system when the property is entered into MLS.
- The Board Office will track this process and will assess a \$10.00 fine for each listing not showing a picture.
- Mobile, doublewides and singlewides are all "Mobile / Manufactured" - not "Single Family". (Amended 5/12).
- NO "Branding" in MLS – no names or phone numbers outside the fields provided for LO and Listing Realtor. This also includes no signs or agent/office information in photos and video/virtual home tours. Photographs shall be limited to the real property and shall not include photographs of the User, Participant, household pets, or people as the focal point, etc. (Amended 12/17).
- Agents can only use another agent's listing photo(s) WITH permission. If an agent can prove that the photos belonged to them and they Error Report the listing, notice will be given to the offending agent that permission needs to be requested, the photos removed and/or replaced with newly taken photos. (Adopted 06/2018).
- Properties in MLS – must relate to real estate, cannot be "rental only", "lease only", "inventory only", "auto window repair", "a Bucket and a Mop Service" or any non-real estate item.
- MLS Error Reports may be submitted to the NEOBR office by any authorized user of the multiple listing service. This error report is anonymous and will be forwarded to the Listing Realtor and to the NEOBR office. If the listing is not corrected after five (5) days after the Listing Realtor is notified, the following fines will be imposed (full fines will be assessed as required by these MLS Rules and Regulations):

<b>First offense</b>	\$10.00 fine
<b>Second offense</b>	\$25.00 fine
<b>Third Offense</b>	\$50.00 fine
<b>Fourth offense</b>	Subject to suspension from MLS

### **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 she/he does not desire the listing to be disseminated by the service.

### **Section 1.4 Change of Status of Listing**

Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the service within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.



### **Section 1.5 Withdrawal of Listing Prior to Expiration**

Listings of property may be withdrawn from the multiple listing service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal. Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that their exclusive relationship with the listing broker has been terminated, the multiple listing 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 will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction when the list price is at the discretion of the participant which can be the minimum bidding price or price as agreed upon between seller and participant. (Amended 2/17)

### **Section 1.8 Listing Multiple Unit Properties**

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

### **Section 1.9 No Control of Commission Rates or Fees Charged to Participants**

The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants.

### **Section 1.10 Expiration of Listings**

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

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

### **Section 1.12 Service Area**

The service area of MLSs 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 MLSs 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 an MLS whose service area exceeds that of the parent association(s) jurisdiction. MLSs may not, as a matter of local determination, require that each other offices of a firm's offices located within the jurisdiction of the association(s) that own and operate the MLS or that are parties to a multi-association or regional MLS service agreement to participate in the MLS if any office of that firm participates in that MLS. (Adopted 07/18 Policy Statement 7.42) M

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

### **Section 1.13 Listing of Suspended Participants**

When a participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended participant shall, at the participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a participant has been suspended from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended participant's listings from the MLS, the suspended participant should be advised, in writing, of the intended removal so that the suspended participant may advise their clients.

### **Section 1.14 Listing of Expelled Participants**

When a participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled participant shall, at the participant's option, be retained in the service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a participant has been expelled from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the expelled participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled participant's listings from the MLS, the expelled participant should be advised, in writing, of the intended removal so that the expelled participant may advise their clients.

### **Section 1.15 Listing of Resigned Participants**

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

### **Section 1.16 Co-Listings**

All Brokers and/or Participants co-listed on a property must be an NEOBR MLS Participant licensed with the same listing office and under control of the same broker and/or managing broker. If two Participants enter into a co-listing agreement, one Participant is the Listing Member and the other is the Co-Listing Agent with one listing number in the multiple listing compilation. (Adopted 5/16)

## **SELLING PROCEDURES**

### **Section 2 - Showings and Negotiation**

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

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

### **Section 2.1 - Presentation of Offers**

The listing broker must make arrangements to present the offer as soon as possible or give the cooperating broker a satisfactory reason for not doing so.

### **Section 2.2 - Submission of Written Offers**

The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

### **Section 2.3 - Right of Cooperating Broker in Presentation of Offer**

The cooperating broker (transaction brokers or single party brokers) or their representative has the right to participate in the presentation to the seller or lessor of any offer she/he secures to purchase or lease. She/he does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker

secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

#### **Section 2.4 - Right of Listing Broker in Presentation of Counter-offer**

The listing broker or their representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. She/he does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee. However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

#### **Section 2.5 - Reporting Sales to the Service**

Status changes, including final closing of sales, shall be reported to the multiple listing service by the listing broker within seventy-two (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 seventy-two (72) hours after occurrence and the listing broker shall report them to the MLS within seventy-two (72) hours after receiving notice from the cooperating broker.

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

#### **Section 2.6 - Reporting Resolutions of Contingencies**

The listing broker shall report to the multiple listing service within seventy-two (72) hours that a contingency on file with the multiple listing service has been fulfilled or 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 broker without the prior consent of the listing broker.

#### **Section 2.8 - Reporting Cancellation of Pending Sale**

The listing broker shall report to the multiple listing service the cancellation of any pending sale, and the listing shall be reinstated, within seventy-two (72) hours.

#### **Section 2.9 - Disclosing the Existence of Offers**

REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker.

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 whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

#### **Section 2.10 - Availability of Listed Property**

Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

### **REFUSAL TO SELL**

#### **Section 3 - Refusal to Sell**

If the seller of any listed property filed with the multiple listing service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted to the service and to all participants, within seventy-two (72) hours.

### **PROHIBITIONS**

#### **Section 4 - Information for Participants Only**

Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.

##### **Section 4.1 - For Sale Signs**

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

##### **Section 4.2 - Sold Signs**

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

##### **Section 4.3 - Solicitation of Listing Filed with the Service**

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

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

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

This section is also intended to encourage brokers to participate in the service by assuring them that

other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

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

## **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 the Northeast Oklahoma Board 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 their compensation shall be prior to their endeavor to sell. \* (Amended 11/96)

\*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 their submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

- a. by showing a percentage of the gross selling price;
- b. by showing a definite dollar amount.

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

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

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on 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.

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

**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 and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Amended 5/08).

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

**Note 6:** Multiple listing services must give participants the ability to disclose to other Participants

any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale.

In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, 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, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers.

### **Section 5.1 - Participant as Principal**

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

### **Section 5.2 - Participant as Purchaser**

If a participant or any licensee (including licensed and certified appraisers) affiliated with a participant wishes to acquire an interest in property listed with another participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker.

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

## **SERVICE CHARGES**

### **Section 6 - Service Fees and Charges**

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



**Initial Participation Fee:** A one-time application fee of \$200.00 per office, non-refundable and non-transferable with the sale of office, shall accompany each firm's application. A one-time, non-refundable application fee of \$150.00 (Member) \$250.00 (MLS ONLY) per participant shall accompany each participant's application. (Amended 8/16).

**Recurring Participation Fee:** The monthly participation fee for each office shall be \$40.00. The monthly participation fee for each participant shall be an amount equal to \$42.00 times each licensed salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such participant. Payment of such fees shall be made on or before the first day of the month and be considered late at the time the next billing is invoiced. (Amended 8/16)(Amended 4/2020)

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. MLS's may, at their discretion, require waiver recipients and their participants to sign a certification for non-use of its MLS services, which can include penalties and termination of the waiver if violated. (Adopted 07/18 Policy Statement 7.43) \* Mandatory waiver provision is effective no later than July 1, 2018.

**Billing:** Invoices will be emailed to all Brokers/Offices or designated Accounts Payable persons by the 20<sup>th</sup> of the month for the following month. Each Broker/Office will be invoiced for the number of Participants at the time of billing. Adjustments for new or dropped Participants will be made at the time of the next billing. Late fees will be applied on all invoices not paid from the previous month. (Adopted 8/16).

If dues, fees, fines, or other assessments including amounts owed to the Board or the Board's Multiple Listing Service are not paid within forty-five (45) days after the due date, the non-paying Office/Member(s) will be automatically suspended unless within that time the amount due is paid. A reactivation fee of \$30.00 will be implemented for the first offense, the second offense will be \$50.00, and the third offense will be \$75.00, and subject to appearance before MLS Executive Committee (Amended 4/2020)

**Note 1:** Financing from the multiple listing service should be adequate but not in such amounts as to be the source of financing the Board's operation. The multiple listing service should pay its own way and allow for a reasonable operating reserve, but it is merely another service of the Board and not the principal activity or reason for the Board's existence. As long as it is able to restrict its services exclusively or primarily to Board members, the service is not properly a Board profit center.

**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, amend Section 6, recurring participation fee and subscription fees, as necessary to include such individuals in the computation of MLS fees and charges.

## **COMPLIANCE WITH RULES**

### **Section 7 - Compliance with Rules**

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

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

**Note:** Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations.

### **Section 7.1 - Applicability of Rules to Users and/or Subscribers**

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

## **MEETINGS**

### **Section 8 - Meetings of MLS General Committee and MLS Executive Committee**

The multiple listing service committees shall meet for the transaction of its business at a time and place to be determined by the committee or at the call of the chairperson.

### **Section 8.1 - Meetings of MLS Participants**

The committee may call meetings of the participants in the service to be known as meetings of the multiple listing service.

### **Section 8.2 - Conduct of the Meetings**

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

### **Section 8.3 - MLS General Committee**

The Multiple Listing Service General Committee consists of one (1) representative from each Multiple Listing Service office: the Designated Broker or a Designated Representative identified

in October for the following year shall present their recommendation to the President of the Board of Directors, and the President shall approve the recommendation or appoint the Committee Chairperson or Chairperson Elect of his/her choosing. The Committee Chairperson and Committee Chairperson Elect is elected by a quorum vote of the Board of Directors in November for the following year. This Committee is responsible for the management of the Board's Multiple Listing Service and establishment of regulations (with Board of Directors approval) governing the service. (Amended 10/15) (Amended 11/18)(Amended 3/19).

#### **Section 8.4 - MLS Executive Committee**

The formulation of a Multiple Listing Service Executive Committee was approved by the Multiple Listing Service General Committee to be effective January 1, 1994. This Committee will be primarily responsible for recommendations in regard to the Board's Multiple Listing Service Policies, including the establishment of these Rules and Regulations governing this Service. The Executive Committee Chairperson will be the same person elected to serve as the MLS General Committee Chairperson in November for the following year. (See Section 8.3) Committee consists of chairperson, and 4 additional elected members, (not more than one from the same office). Members are elected at the November meeting to serve a two (2) year term. The fifth person receiving the most votes will serve as alternate member. (Amended 10/15).

The functions/duties of this Committee may include, but are not limited to the following:

- a. Reviews all changes/practices relating to MLS and develops recommendations or policy changes required. Presents these to the Multiple Listing Service General Committee for ratification.
- b. Evaluates MLS providers/products, forms, training materials, etc. periodically and makes recommendations to the MLS General Committee, if necessary. (Amended 10/15)
- c. Reviews the MLS Rules and Regulations as needed and makes appropriate recommendations.
- d. Any or all infractions may be referred to the MLS Executive Committee via a written complaint. The Committee will then have an opportunity to review the complaint and make recommendations following the procedural guidelines. The Complainant may require an opportunity to respond to the Committee, if necessary.
- e. The Committee may be called upon to make recommendations to the Board of Directors if "continual patterns/problems" are evident.
- f. The recipient of any sanctions may request a hearing before the Professional Standards Committee of the Board in accordance with the Bylaws.
- g. NOMINATIONS – will be made at the November MLS Committee meeting by the MLS General Committee for two (2) members to serve a two (2) year term and for

one (1) alternate member. A ballot will then be prepared for a quorum vote of the General Committee at the November MLS Committee. The additional two (2) elected members will serve their first year along with the two (2) elected members serving their second year beginning at the start of the following year. (Amended 10/15).

- h. TERM – The term shall be for two (2) years in order to maintain continuity. No member shall be eligible to serve more than 2 consecutive terms. Exceptions: The MLS Executive Chairperson will be the same person elected to serve as the MLS General Committee Chairperson in November for the following year. As with the NEOBR Board of Directors, a member who has moved office is allowed to serve out their term. (Amended 10/15)
- i. ATTENDANCE – Any member who is absent from (3) consecutive meetings without requesting an excused absence shall be deemed to have resigned from the Committee. (Amended 10/15)
- j. MEETINGS – Meetings will be every month or special meetings may be called, if necessary. (Amended 10/15)

## **ENFORCEMENT OF RULES OR DISPUTES**

### **Section 9 - Consideration of Alleged Violations**

The committee shall give consideration to all written complaints having to do with violations of the rules and regulations.

#### **Section 9.1 - Violations of Rules and Regulations**

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service Executive 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 Northeast Oklahoma Board of Realtors® within twenty (20) days following receipt of the committee's decision.

These sanctions may be imposed (full fines will be assessed as required by these MLS Rules and Regulations):

<b>First offense</b>	\$10.00 fine
<b>Second offense</b>	\$25.00 fine
<b>Third offense</b>	\$50.00 fine
<b>Fourth offense</b>	Subject to suspension from MLS

If, rather than conducting an administrative review, the Multiple Listing Executive Committee has

a procedure established to conduct hearings, the decision of the Multiple Listing Executive Committee may be appealed to the board of directors of the Northeast Oklahoma Board of Realtors® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the Board's grievance committee for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the Northeast Oklahoma Board of Realtors®.

### **Section 9.2 - Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the committee to the CEO of the Northeast Oklahoma Board of Realtors® for appropriate action in accordance with the professional standards procedures established in the Board's bylaws.

## **CONFIDENTIALITY OF MLS INFORMATION**

### **Section 10 - Confidentiality of MLS Information**

Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants.

### **Section 10.1 - 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 10.2—Access to Comparable and Statistical Information**

Board members who are actively engaged in real estate brokerage, management, mortgage financing, 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 Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm, except as otherwise provided in these rules and regulations.

## **OWNERSHIP OF MLS COMPILATION\* AND COPYRIGHT**

### **Section 11 Ownership of MLS Compilation\***

\*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.

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. (Amended 1/17).

**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](#) (Adopted 5/17)

## **Section 11.1 Copyright**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Northeast Oklahoma Board of Realtors® and in the copyrights therein, shall, at all times remain vested in the Northeast Oklahoma Board of Realtors®.

### **Section 11.2 Use of MLS Compilation\***

Each participant shall be entitled to lease from the Northeast Oklahoma 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.\*

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

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

### **Section 11.3 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. (Amended 1/17)

## **USE OF COPYRIGHTED MLS COMPILATION**

### **Section 12 Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the Northeast Oklahoma Board of Realtors®, and shall not distribute any such copies to persons other than subscribers who are affiliated with such participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by a Board multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by a Board multiple listing service where access to such information is prohibited by law.

### **Section 12.1 Display**

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

### **Section 12.2 Reproduction**

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

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

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 may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Amended 5/14).

## **USE OF MLS INFORMATION**

### **Section 13 Limitations on Use of MLS Information**

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

Based on information from the Northeast Oklahoma Board of Realtors® for the period *(date)* through *(date)*.

## **CHANGES IN RULES AND REGULATIONS**

### **Section 14 Changes in Rules and Regulations**

After proper written notification to all MLS General Committee members, amendments to the rules and regulations of the service shall be by a majority vote of the members of the Multiple Listing Service General Committee in attendance, subject to approval by the Board of Directors of the Northeast Oklahoma Board of Realtors®.

## **ORIENTATION**

### **Section 15 Orientation**

Consistent with the NEOBR Bylaws, new members will be considered provisional members for 60 days, during which time they must attend a mandatory orientation program and Multiple Listing Service Training Session. If they are not in compliance at the end of the 60 days, membership may, at the discretion of the Board of Directors, be terminated. (Amended 8/16).

All Secretaries/Office Managers are welcome to attend the MLS Training Sessions.

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. (Amended 11/17).

### **INTERNET DATA EXCHANGE (IDX)**

**Note: These model rules, originally adopted in November 2001, are updated to reflect enhancements to the IDX policy approved in May 2015.**

#### **Section 18 IDX Defined**

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

#### **Section 18.1 Authorization**

Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. (Amended 5/17)

#### **Section 18.2 Participation**

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

##### **Section 18.2.1**

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 18.2.2**

MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 5/12).

**Section 18.2.3**

Listings including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing's or 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 5/17).

**Section 18.2.4**

Participants may select the listings they choose to display through IDX based on objective criteria including, but not limited to, factors such as geography or location ("uptown", "downtown," etc.) list price, type of property (e.g. condominiums cooperatives, single-family detached, multi-family) cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right –to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each participant. (Amended 5/17).

**Section 18.2.5**

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

**Section 18.2.6**

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. (Amended 5/12).

**Section 18.2.7**

Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 5/12).

**Section 18.2.8**

Any IDX display controlled by a participant or subscriber that:

- a. Allows third parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. Displays an automated estimate or the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

Either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has

elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. (Amended 5/12).

#### **Section 18.2.9**

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. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 5/12)

#### **Section 18.2.10**

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).

#### **Section 18.2.11**

Participants shall not modify or manipulate information relating to other participants' listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all the available listings or fewer authorized fields. (Amended 5/15)

#### **Section 18.2.12**

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 5/17).

Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 5/17).

### **Section 18.3 Display**

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

**Section 18.3.1**

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

**Section 18.3.1.1**

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

**Section 18.3.4**

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

**Section 18.3.5**

Non-principal brokers and sales licensees affiliated with IDX participants may display on information available through IDX on their websites subject to their participant's consent and control and requirements of state law and/or regulations.

**Section 18.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 5/12).

**Section 18.3.8**

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

**Section 18.3.9**

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 18.3.10**

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

**Section 18.3.11**

Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 11/14).

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

**Section 18.3.12**

Display of expired, withdrawn, and sold listings\* is prohibited.

\* *Note:* If “sold” information is publicly accessible, display of “sold” listings may not be prohibited. (Amended 5/15).

**Section 18.3.13**

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

**Section 18.3.14**

Participants are required to employ appropriate security protection such as firewalls on their websites and displays provided that any security measures required may not be greater than those employed by the MLS. (Amended 5/12)

**Section 18.3.16**

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

**Section 18.4 Service Fees and Charges**

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

**VIRTUAL OFFICE WEB SITE (VOW)****Section 19 VOW Defined**

VOW means a Participant’s Internet Web site (and, where authorized, Web sites of non-principal brokers and sales licensees affiliated with MLS Participants) through which consumers receive real estate brokerage services, including the opportunity to search for MLS data subject to the

Participant's oversight, supervision, and responsibility.

### **Section 19.1 VOW Defined**

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

### **Section 19.2**

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

displayed on the participant's VOW.

### **Section 19.3**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
  - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
  - i. that the Registrant acknowledges entering into a lawful consumer-broker



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

#### **Section 19.4**

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

#### **Section 19.5**

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

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

#### **Section 19.6**

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or

property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

**Seller Opt-out Form**

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

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

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

**Section 19.7**

- a. Subject to Subsection b., below, a participant's VOW may allow third-parties:
  - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings; or,
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the

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

#### **Section 19.8**

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

#### **Section 19.9**

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

#### **Section 19.10**

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

#### **Section 19.11**

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

#### **Section 19.12**

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

#### **Section 19.13**

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

#### **Section 19.14**

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

**Section 19.19**

**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 be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less. (Adopted 05/17)

## **LOCK BOXES**

### **Section 20 Lock Boxes(Revised and Adopted 7/18)**

There is no requirement for an MLS to use lockboxes and no listing broker is required to place a lockbox on a property, but if the MLS does offer the lockboxes, it must make them available to anyone who participates in the MLS, whether a Board member or not. Nothing shall prevent the owner's right to refuse to have a lockbox on their property.

A lockbox is a container affixed to property containing a device to gain access to the property being marketed by a participant in the MLS. Participants in the MLS or their sale associates (and licensed or certified appraisers affiliated with the participants) are authorized under certain conditions to open these lockboxes under terms specified by the listing broker. Cooperating brokers and sales licensees must contact the listing broker to arrange appointments to show listed property even if the property has a lockbox affixed to it unless the listing broker has given specific permission (through information published in the MLS or otherwise) to show the property without first contacting the listing broker.

If a Board or its MLS elects to engage in the lease, or distribution of lockboxes to its members or be involved in any way with the sponsorship or endorsement of a common lockbox system, the lockbox security requirements as established by the NATIONAL ASSOCIATION OF REALTORS® shall be the minimum security measures adopted and implemented in connection with such lockbox system.

Boards 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 Board or MLS and set forth in the rules and procedures. All Holders, whether or not they are Board members or MLS participants, shall agree, as a condition of the user agreement, to be bound by the rules and procedures governing the operation of the lock-box system. (Amended 5/17).

### **Section 20.1 Lockbox Security Requirements**

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the Board, its MLS, or on behalf of a Board by a recognized lock box vendor: (Amended 5/17) M

#### **20.1.1 Types of Keys.**

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

As a matter of local discretion, the listing broker or agent can issue a One Day Showing Code provided the proper security rules are followed (Section 20.1.4.j).

### **20.1.2 Security Protocols.**

Keys must be obtained from the original manufacturer, from a recognized vendor of lockbox 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 5/17).

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

- a. where an unauthorized user can override or escalate their security credentials;
  - b. where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access;
  - c. forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user;
  - d. 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;
  - e. transmission(s) of frequencies to deceive the lockbox electronics into opening
- (Adopted 05/17).

### **20.1.3 Requiring**

“Approved” Lock Box Systems As a matter of local discretion, Boards and MLSs may require placement of an “approved” lock box 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 is to ensure cooperating participants and subscribers have timely access to listed properties. Requiring that a lockbox or other access device be “approved” does not limit the devices that satisfy the requirement to lockboxes leased or sold by the Board or MLS. The Board 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 Board 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 5/17) M **NOTE:** *Obtaining seller authorization or non authorization (as provided for on the OREC Listing Agreement (11 2015) Item #19) is required from the amended date of this rule forward, on all new listing contracts and listing contract extensions.*

### **20.1.4 Security of Keycard and Property Key**

Upon execution of the Authorized User Agreement, Holder acknowledges that it is necessary to maintain security of the keycard and the property key to prevent their use by unauthorized persons.

Upon execution of the Authorized User Agreement, Holder agrees:

- a. To keep the keycard in Holder's possession or in a safe place at all times;
- b. Not to allow Holder's PIN to be attached to the keycard;
- c. Not to disclose Holder's PIN to any third party;
- d. Not to lend the keycard or property key to any person, for any purpose whatsoever, or to permit the keycard or property key to be used for a purpose by any other person;
- e. Not to duplicate the keycard or property key or allow any other person to do so;
- f. Not to assign, transfer or pledge the keycard or any other rights thereto, except as noted in paragraph 16;
- g. Not to allow anyone who has been admitted to the property by Holder, to remain in the property after the Holder has left the property without the consent of the property owners;
- h. To return the property key(s) to the Lockbox when leaving the property; and to assure that the Lockbox has been securely closed before leaving the property.
- i. Prior to leaving the property, close and lock any windows or doors opened or unlocked by the Holder or by anyone admitted by the Holder;
- j. One Day Showing Codes to be Treated as Follows:
  - i. Obtain the caller's name and phone number, and the company name and phone number.
  - ii. Confirm that the agent is in fact a licensed agent with the company before leaving the one-day code, with the office or in the agent's voice mailbox. You are strongly advised not to leave the code, if the phone number called simply puts you into a personal or unidentified voice mail box, without allowing you to confirm the agent's status with the company.
- k. To follow all additional security procedures as specified by NEOBR, from time to time amended.

**Note:** The preceding security measures are those measures required of NEOBR MLS members as a minimum requirement and do not preclude more rigid measures by NEOBR or its MLS at the option of the NEOBR Board of Directors.

#### **20.1.5 Requirement of Identification**

Should Holder need to obtain Holder's PIN number, NEOBR shall require Holder to appear personally at the NEOBR office or call the office but Holder must provide some form of appropriate identification to verify ownership.

- a. Appropriate identification shall consist of a valid Driver's License (or in the absence thereof a valid picture I.D.) and Holder's Oklahoma Real Estate License (Pocket Card).
- b. NEOBR shall maintain an accurate accounting of all information disseminated under this provision. Should a Holder need to obtain a shackle code for Holder Lockbox, Holder or Designated REALTOR® may do so by calling NEOBR and giving Holder's

keycard PIN to staff. (Designated REALTOR® shall not be required to provide the PIN code). Staff may then release the shackle code via telephone. Staff may only release shackle codes for lockboxes owned by the caller or the Designated REALTOR® of the owners.

## **Section 20.2 Availability of Lockbox System and Keycards**

The lockbox system is an activity of the Northeast Oklahoma Board of REALTORS®, and every REALTOR® and every non-principal broker and sales licensee, shall be eligible to hold a keycard subject to their execution of a User Agreement with the Board. NEOBR will issue lockboxes to Holders and will maintain a separate inventory of boxes.

Upon execution by the Cardholder of the Sentrilock Authorized User Agreement, the Holder agrees to all the terms and conditions of the Agreement. Violation of any of such terms and conditions may constitute grounds for termination of the agreement and deactivation of the Sentricard®, and/or imposition of fines and/or imposition of fines and/or charges under provisions as stated in Section

### **20.16. Designated REALTOR® will be required to co-sign User Agreement.**

Upon execution of “User Agreement” “Agreement” Holder will be granted a personal, revocable, non-exclusive and non-transferable license to use the keycard and lockbox in connection with the Holder’s normal and customary activities while acting as a real estate agent or appraiser on the terms and conditions set forth in the referenced “Authorized User Agreement”.

Upon written notice to NEOBR, may terminate the User Agreement at any time. Reporting of a keycard lost, stolen, or otherwise unaccounted for shall not be construed as Notice of Termination. Upon termination all equipment shall be returned to NEOBR.

NEOBR will not issue more than one keycard per Holder. Holder assistant may purchase a card for the same cost of the Holder.

**20.2.1 Affiliate Members Boards and MLSs** may, at their discretion, lease keys to affiliate members of Boards who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the “Authorized User Agreement” shall be signed by the Holder and by a principal, partner, or corporate officer of the Holder’s firm. (Amended 5/17).

**20.2.2 Public Service Members Public Service Members** may be allowed to participate in the Electronic Key Box System with Board approval and verification that they are licensed and bonded. The Board will only approve those that are known to them and have very specific real estate / contract related needs to access properties. (Amended 8/16).



### **Section 20.3 Issuing Keycards on a Temporary Basis**

In the event electronic lockbox programmers or keycards are leased, a designated REALTOR® principal or an office's broker of record may lease additional programmers or keycards to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keycard becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keycard is not reasonably available from the issuing Board or MLS. When a programmer or keycard is issued on a temporary basis, it shall be the responsibility of the REALTOR® principal or the broker of record to advise the Board or MLS in writing that the programmer or keycard 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 Board or MLS in writing within two (2) business days after possession of the previously issued programmer or keycard has been reassumed. (Adopted 5/17) M

### **Section 20.4 Costs and Fees**

NEOBR reserves the right to invoke a variety of fees and/or price schedules and may at its discretion, alter these fees and prices as it sees fit.

- Hardware Costs: Loss of Lockbox or Lockbox Replacement- \$100.00.
- NEOBR Usage Fees is included in each member's monthly statement which includes, but is not limited to, FlexMLS, Corelogics, Realist, and SentriLock.
- Administrative Fees: For lost/stolen keycard, return of replacement cards: - \$100.00 (if applicable).

Individuals may be required to pay lockbox costs as part of Board 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 keycard from the Board except on a voluntary basis. (Adopted 5/17).

### **Section 20.5 Refusal of License**

Boards and MLSs may refuse to issue lock boxes or key cards, may terminate existing user agreements, and may refuse to activate or reactivate any keycard held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 5/17).

- a. The Board 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 5/17).
- b. The Board or MLS gives the individual an opportunity to provide documentation and the Board or MLS must consider mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:

- i. the individual's age at the time of the conviction(s);
- ii. nature and seriousness of the crime;
- iii. extent and nature of past criminal activity;
- iv. time elapsed since criminal activity was engaged in;
- v. rehabilitative efforts undertaken by the applicant since the conviction(s);
- vi. facts and circumstances surrounding the conviction(s); and,
- vii. evidence of current fitness to practice real estate. (Amended 5/17).

Boards 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 5/17).

Boards or MLSs may suspend the right of lockbox keycard Holder to use lockbox keycard following their arrest and prior to a final determination on any such charge if, in the determination of the Board 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. In exercising this right, the Board of Directors shall afford such due process as it deems in its discretion fair and feasible in light of the circumstances; and any period of suspension prior to an opportunity for a hearing on the issue of whether keycard Holder engaged in the conduct for which keycard Holder was arrested and if so whether that conduct relates to the real estate business or poses a potential risk to clients, customers or other real estate professionals, shall be kept to the minimum period of time deemed reasonably feasible by the Board of Directors in its discretion. (Amended 5/17).

## **Section 20.6 Supervision**

For as long as Holder shall have an activated keycard, the Designated REALTOR® (Participant) shall maintain supervisory authority over Holder. Holder shall be actively engaged in the real estate profession as defined by the National Association of REALTORS®.

- a. Designated REALTOR® and Holder shall maintain current Oklahoma real estate licenses or appraiser's licenses;
- b. By executing the "User Agreement", Holder agrees that they are liable for all duties, responsibilities, and obligations consistent with use of the keycard;
- c. Holder or the Designated REALTOR® shall promptly notify NEOBR should the Holder cease to hold a valid licensel
- d. Holder must comply with all NEOBR Rules and Regulations and Policies for use of Lockbox and SentriCard®; and,
- e. Holder must keep NEOBR advised in writing of their current address at all times. Address changes must be reported to NEOBR within seventy-two (72) hours.

Holders who transfer from one office to another office that participate in the NEOBR MLS lockbox

service shall be required to sign a new Authorized User Agreement, and the new MLS Participant shall cosign this Authorized User Agreement.

Holder shall use the keycard only for the purposes of gaining authorized entry into real property on which a system Lockbox has been installed pursuant to an agreement with the owner(s) of such real property. Use of a keycard to gain entry to a property for any purpose other than the exercise of authority or responsibility derived from the agency, sub-agency or other legally recognized brokerage relationship granted by the owner in the listing agreement or offer of cooperation by the Agent, or from an appraisal relationship with the owner or contract buyer, is specifically forbidden.

Utilization of information derived from viewing properties shall not be used or conveyed to anyone for any purpose other than to facilitate the sale or lease of real property.

Holder's license to use the keycard for entry into the system shall be revoked immediately upon the following:

- a. Termination of Holder's affiliation with an eligible DR (Designated REALTOR®);
- b. Failure of Holder to comply with any of the terms and conditions set forth herein, including but not limited to, the provisions of the Authorized User Agreement or the NEOBR Bylaws, Rules and Regulations, and policies.

#### **Section 20.7 Authorizations Required**

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

- a. Holder shall be obligated to supply NEOBR with a copy of the written authorization from the owner, should such be requested by NEOBR;
- b. Holder shall include in a listing agreement or some other agreement signed by the owner(s) of such property prior to installation and use of this system a provision whereby the owner(s) acknowledge(s) the risk of using the system and releases NEOBR, and the officers, directors, members, employees, independent contractors, and agents of NEOBR from any and all liability in connection with the system; and
- c. Licensees may not use their keycard to access an electronic lockbox without first calling the listing office to ascertain the availability of the property, make an appointment with the owner, and obtain any other instructions from the listing office. There is one exception to this rule and that exception applies to vacant property. If the listing licensee has indicated in the MLS that the property is vacant, and no appointment is necessary, then the licensee may proceed to the property and use the keycard to obtain entrance through the lockbox.

## **Section 20.8 Proper Use of Lockbox System**

- a. Lockboxes are normally programmed to exclude entry between 9:00 p.m. and 7:00a.m. Properties listed in MLS that are programmed for 24 hours entry should have “24 HR” as the leading entry in line one of the remarks in the computer system;
- b. Lockboxes that have been programmed for Call Before Showing (CBS) should be so indicated in the computer. In no case shall CBS codes be published or distributed. CBS codes are confidential and should only be provided by the listing agent on a case-by-case basis according to the needs of the specific transaction;
- c. Lockboxes that have been programmed for restricted hours should be so indicated in one of the remarks sections of the MLS;
- d. One Day Showing Codes: The use of one day showing codes are governed by Section (20.1.4.j) herein;
- e. When leaving a property, it is the responsibility of the agent to ensure that the property key is replaced in the lockbox and that the lockbox is properly closed. If a lockbox is found not properly closed, the agent should contact Listing Broker immediately. The listing Broker/Agent should read the lockbox. The last person found to have entered the property (provided this was not the agent to report the violation) will be held responsible;
- f. Care should be taken when entering a property by use of a keycard. The property should be left in the same condition in which it was found. It is common courtesy for an agent (even when previewing) to leave a business card in the property. Should an agent find a property left in unsatisfactory condition it should be reported to the Listing Broker immediately;
- g. Holders must update their keycard as necessary or as required by the system; and,
- h. Board owned lockboxes are to be used on listed property only. The use of Board owned boxes on non-MLS properties is prohibited.

## **Section 20.9 Required Fields**

If Lockbox is selected as [How to Show] the correct lockbox serial number must be entered on the listing information. Any agent failing to input the correct serial number or inputting false or misleading information about the lockbox into the MLS system, within ten (10) days of the listing date, will be assessed a \$50 fine. Prior notice will be given via e-mail with a ten (10) day window to correct the issue after which the agent will be invoiced.

## **Section 20.10 Return of Lockbox**

Lockboxes must be removed from property and returned to the inventory (48) Hours after expiration or closing of the listing. Failure to remove lockbox from a closed, expired or withdrawn listing may result in a fine.

Agents are also responsible for removing their lockboxes from properties when:

- a. they move to a new company;

- b. when they leave the Board. When they remove the lockbox, they are required to return the key to the original broker and/or the property owner. The original listing broker is responsible for putting a new agent's lockbox on the listing.

### **Section 20.11 Loss of Lockbox**

All lockboxes assigned to each individual agent will be the responsibility of that agent. The agent will be charged \$100 for any lockbox not accounted for at the time of an audit notwithstanding the following circumstances:

- a. Any lockbox lost because of a natural disaster or fire must be reported to the Board office within (30) business days of the event. If reported in the proper time frame the agent will not be charged for the cost of the lockbox;
- b. Any lockbox stolen from listed property or from an agent personally must be reported to the police and a copy of the police report given to the Board office as soon as possible in order for the agent not to be charged for the lost lockbox.

### **Section 20.12 Loss of Keycard**

In the event a keycard is lost, stolen, or otherwise unaccounted for, Holder shall notify NEOBR within forty-eight (48) hours by telephone, email and/or in writing. The Holder shall promptly report any such theft to the appropriate law enforcement agency. If the keycard is lost or stolen, the Holder agrees that the keycard will immediately be deactivated by NEOBR. The cost to replace the keycard will be \$100.00. Holder of keycard will be responsible for replacing card.

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)

### **Section 20.13 Repairs**

Holders will NOT be charged for defective keycards as long as they turn them into the Board Office for verification they no longer work.

### **Section 20.14 Audit Requirement**

NEOBR MLS shall maintain current records as to all keycards issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. NEOBR reserves the right to conduct an audit, at least annually, of all keycards, whether issued or in inventory. This requirement may be satisfied by a physical inventory or, alternatively, by receipt of a statement signed by the Holder and the designated REALTOR®, broker of record, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the Holder's firm, attesting that the keycard is currently in possession of the Holder. (Amended 5/17).

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

NEOBR reserves the right to conduct a lockbox audit as often as every six (6) months. Holders of lockboxes not accessed in the preceding six (6) month period will be notified by email. If after ten (10) business days the lockbox remains inactive, it will be presumed lost and the Holder will be billed for the cost of the lockbox. If the Holder still has the lockbox in their possession they can access it with their keycard or return the lockbox to the Board Office to remove the charge from their account.

The deposits for keycards shall be kept in a special account for refund upon return of the keycard, unless forfeited upon loss of the keycard. The funds deposited are to be retained for this purpose only and are not to be utilized in any other manner. The separate fund may be an interest-bearing account with the interest retained by the Board or Board MLS, unless, as a requirement of law, or at the discretion of the Board or Board MLS, such interest shall be made payable to the Participant and Holder as per the key card lease agreement.

### **Section 20.15 Violations/Complaints**

- a. Upon receipt of a complaint against a member alleging violation of the rule requiring a licensee to make an appointment to show property through the listing office, there will be a letter of notification sent to that member advising that the member will be offered a hearing before the MLS Executive Committee. Upon request by the Committee, the current complaint(s) against the member may be presented for consideration and action, consistent with those stated in the Code of Ethics and Arbitration manual. Respondent to complaint will be offered the opportunity for an appeal. This violation could also be turned over to the Grievance Committee as an ethics violation.
- b. If after a hearing, the Committee finds that a keycard has been loaned or borrowed in violation of the policy, fines shall be assessed against each REALTOR® who loaned/borrowed the keycard as determined by the MLS Executive Committee Members.

#### **20.15.1 Failure to Comply and Violation**

Any failure to comply with any of the terms herein or of the User Agreement or the Bylaws, Rules and Regulations, and policies of NEOBR shall constitute an event of default.

- a. Upon the occurrence of any such event of default, the User Agreement may be terminated in accordance with these Rules and Regulations by NEOBR.
- b. Holder shall be subject to loss of access to the system, fines, and other penalties as determined by the Bylaws, rules and regulations, and policies of NEOBR.
- c. If the alleged default is an alleged violation of the Security Provisions contained in II (5) of these Rules and Regulations the violation will be processed according to the ethics enforcement procedures of the National Association of REALTORS® (NAR) Code of Ethics and Arbitration Manual. The complaint will be reviewed by the NEOBR MLS Executive Committee and either dismissed or forwarded to Board of Directors.
- d. If a violation of these Rules and Regulations is determined by the Board of Directors. Sanctions are imposed as listed in II (9) of these Rules and Regulations.

- e. If the alleged default involves an alleged violation of the Code of Ethics and Standards of Practice of the NAR Policy the sanctions for any ethics violations will be determined by a Hearing Panel in accordance with the procedures of the NAR Code of Ethics and Arbitration Manual.
- f. Failure to comply with all keycard procedures may result in the deactivation of keycard. NEOBR will not be obligated to re- activate keycards unless and until Holder again becomes authorized to utilize the System.
- g. Failure to pay appropriate NEOBR dues and fees will result in deactivation of keycard.

## **Section 20.16 Fines**

Fines are due within (10) days of receipt of Final Action of the Board of Directors:

<b>First offense</b>	\$50.00 fine
<b>Second offense</b>	\$100.00 fine
<b>Third offense</b>	Cancellation of keycard for a period not to exceed 30 days.
<b>Fourth offense</b>	Indefinite suspension from use of the keycard. Keycard shall be returned to the Board office.

Member would not be required to be at the MLS Executive Committee meeting hearing but would be entitled to a due process hearing if found in violation of the MLS rules.

### **20.16.1 Action to Enforce**

Any action for the enforcement of these Rules and Regulations or of the User Agreement may be made in the name of the Northeast Oklahoma Board of REALTORS®, in any court holding jurisdiction over the geographic location of NEOBR business address and shall include payment of collection fees and attorney's fees by Holder.

## **Section 20.17 Miscellaneous**

If any provision of the Authorized User Agreement or these Rules and Regulations shall be held to be invalid, illegal, or unenforceable, such holdings shall not affect the validity, legality or enforceability of the remaining provisions. These Rules and Regulations shall include any and all amendments thereto which may be adopted from time to time.

### **Note:**

- Lockbox refers to Sentrilock® System
- Keycard refers to the Sentricard® entry card or any future product introduced by Sentrilock
- Holder ("Holder" or "Cardholder") is any licensed real estate associate or licensed appraiser under the supervision of a Designated REALTOR®.
- Participant refers to Managing Broker, DR (Designated REALTOR®)
- DR ("Designated REALTOR®") is any principal broker or his/her designee in accordance with the National Association of REALTORS® (NAR) rules.
- NEOBR is the Northeast Oklahoma Board of REALTORS®
- Authorized User Agreement or User Agreement is the "Sentrilock User Agreement"
- Person means an individual or entity.