

# **RULES AND REGULATIONS OF NEWMLS, L.L.C. d/b/a GARDEN STATE MULTIPLE LISTING SERVICE, L.L.C.**

## **PREFACE**

Set forth below are the Rules and Regulations applicable to all Users of the Service. All Users of the Service agree to abide by, and be bound by, these Rules and Regulations, and any amendments hereto, by their joining GSMLS, L.L.C. and by their use of the Service. These Rules and Regulations, and any amendments thereto, shall be disseminated to Users of the Service by means of (i) the Service's on-line system and (ii) in any other manner determined by the Service. It shall be the obligation of each User to keep himself/herself apprised of all Rules and Regulations and any amendments thereto.

A primary purpose of the Service is to provide the means by which a listing broker establishes legal relationships with Participants and Subscribers by making blanket unilateral contractual offers of compensation and cooperation. These Rules and Regulations do not alter any obligations otherwise imposed on real estate licensees under New Jersey law, including Real Estate Commission regulations, statutory law and common law. The Service's acceptance or publication of listings eligible for MLS submission in no way constitutes a validation that said obligations have been met. It is the responsibility of all Participants and Subscribers to abide by their legal obligations.

## **ARTICLE I - DEFINITIONS**

### **Section 1.1 SERVICE**

Garden State Multiple Listing Service, LLC shall be referred to as the "Service" or "GSMLS".

### **Section 1.2 SERVICE AREA**

GSMLS' Service Area shall be comprised of the geographic area designated by GSMLS as its Service Area. The Service Area may be changed, from time to time, at the discretion of GSMLS.

### **Section 1.3 PARTICIPANT**

A Participant must pay the current Service Participation Fees and shall be:

(i) for a REALTOR office a REALTOR individual (licensed broker) appointed by the office to be responsible for the actions and payments of all the other REALTORS and REALTOR Associates within the office, or (ii) for a non-REALTOR office a licensed broker appointed by the office to be responsible for the actions and payments of all other licensed Real Estate brokers and salespersons within the office.

All Participants shall be responsible for the payments and actions of their Subscribers (as this term is defined below).

### **Section 1.4 SUBSCRIBER**

Each licensee in a Participant's office will be considered a "Subscriber" and will be entitled to full services under the Participant, provided said Subscriber has paid the current Service Participation Fees. A licensee shall mean an individual licensed by the state or other jurisdictional governing body designated by law to license Real Estate agents and brokers. A Referral Agent, as defined by New Jersey real estate regulations, shall not be deemed a licensee hereunder.

### **Section 1.5 APPRAISER PARTICIPANT**

Shall be an individual who meets all of the following requirements:

- a. The individual holds a valid New Jersey appraisers certification or license;
- b. The individual has signed a written agreement to abide by the Rules and Regulations of the Service in force at that time and as from time to time amended; and
- c. The individual pays all applicable MLS fees.

### **Section 1.6 AFFILIATE PARTICIPANT**

Affiliate Participants shall be individuals who are in related specialty businesses to residential brokerages with respect to which the Service may elect to provide services. Such specialty businesses might include real estate management, mortgage financing, land development or building. These individuals must sign a written agreement to abide by the Rules and Regulations of the Service in force at that time and as from time to time amended, and shall pay all applicable MLS fees.

### **Section 1.7 CLERICAL USERS**

Clerical users are individuals employed by or affiliated as independent contractors with, and under the direct supervision of, a Participant or Subscriber and who perform only administrative and clerical tasks that do not require a real estate license or an appraiser's certificate or license. Each Participant and Subscriber must provide the Service with a list of the clerical users employed by or affiliated as independent contractors with the Participant or Subscriber and shall immediately notify the Service of any changes, additions or deletions from the list. Each Participant and Subscriber shall be responsible for the conduct of all of his/her clerical users. Each participating office shall be limited to a maximum of two clerical users. Each clerical user shall sign a written agreement to abide by the Rules and Regulations of the Service in force at that time and as from time to time amended, and shall pay all applicable MLS fees.

### **Section 1.8 USERS**

Users shall include all individuals authorized under these Rules and Regulations to access the Service's MLS System or to receive any MLS information.

### **Section 1.9 MEMBER BOARD**

Shall be any Board of REALTORS who is a member of GSMLS.

### **Section 1.10 MLS INFORMATION**

MLS Information shall include any and all information in the Service's MLS system including, but not limited to, all current listing information and all comparable and statistical information.

### **Section 1.11 CURRENT LISTING INFORMATION**

Current listing information shall mean that portion of MLS information relating to listings currently for sale (either as active or under contract listings).

### **Section 1.12 COMPARABLE AND STATISTICAL INFORMATION**

Comparable and statistical shall mean that portion of MLS information relating to off market data (but not including temporarily off the market listings), and data for sold and leased listings.

### **Section 1.13 LISTING STATUS**

Any listing placed with the Service shall be considered active and available for showing in accord with the terms of the listing agreement. In the event an active listing is not going to be available for showing in accord with the terms of the listing agreement, the listing broker should obtain a written agreement from the property owner amending the terms of the listing agreement or temporarily taking the listing off the market (whichever is appropriate) and submit notice of this change to the Service in accord with these Rules and Regulations.

Any listing subject to an executed contract or lease that is still pending attorney review shall still be deemed active and available for showing in accord with the terms of the listing agreement. A listing broker has the option, but is not required, to identify any such listing as ARIP (Attorney Review In Progress) in the MLS system. To the extent there is going to be any change in the availability of such a listing during the attorney review period, the listing broker must follow the procedure set forth above regarding changes in availability.

A listing shall be deemed under contract (also referenced herein as pending) when it is subject to an executed contract or lease that is pending and in effect, and which has survived attorney review if it was subject to such review. The status of a listing that is under contract, and that is going to continue to be shown while under contract, shall be Under Contract, Continue to Show. A listing that is under contract shall be reinstated as an active listing in the event the contract is cancelled.

A listing shall be deemed sold or leased upon transfer of title or the lease taking effect.

## **ARTICLE II - PARTICIPATION**

### **Section 2.1 RIGHTS OF PARTICIPATION**

A Participant's or Subscriber's payment of the Participation Fee shall entitle the Participant or Subscriber to: access the Service computer programs on a continuing basis; user manuals; submit listings to the Service under the listing regulations; broker open houses as advertised on the Service computer may be arranged by the Participant or Subscriber; all services of the Service will be made available to each Participant and Subscriber subject to the terms of these Rules and Regulations.

### **Section 2.2 REQUIREMENTS FOR PARTICIPATION BY NON-REALTOR INDIVIDUALS**

Applicants for participation, as Participants or Subscribers from non-REALTOR offices and non-REALTOR Subscribers from REALTOR offices, shall be bound by all Rules and Regulations applicable to participation by REALTORS and expressly agree:

- To be bound by the Code of Ethics of NAR and NJAR.
- To be bound by the grievance and arbitration requirements of the Rules and Regulations.
- Arbitrations involving non-REALTORS shall be conducted by a Board/Association of REALTORS retained by the Service. The non-REALTOR shall be personally liable for any and all costs associated with the arbitration\*. To ensure payment of these costs, participation by non-REALTORS shall be conditioned on the maintenance of an escrow account with the Service, which account shall be replenished by the non-REALTOR in the event of an arbitration or a hearing (as referenced in the following provision). In the event this account is not replenished by the non-REALTOR, then participation rights shall be suspended until such time as the escrow is replenished.

\*[Note: REALTORS shall also be personally liable for any and all costs associated with the arbitration. Their obligation for said costs, however, shall be subject to the terms and conditions of their membership in the Board/Association of REALTORS.]

- In accord with Article VIII, ethics complaint hearings may be conducted by a Board/Association of REALTORS retained by the Service. A non-REALTOR shall be personally liable for any and all costs associated with such a hearing.\*\* To ensure payment of these costs, the escrow account maintained by non-REALTOR Participants (in accord with the preceding provision) shall be available to cover the costs of such hearings for said non-REALTOR Participants and those Subscribers under the Participant's supervision. In the case of a non-REALTOR Subscriber associated with a REALTOR office, the non-REALTOR subscriber shall be required to maintain an escrow account with the Service, which account shall be replenished by the non-REALTOR Subscriber in the event of a hearing. The maintenance of this escrow account by the non-REALTOR Subscriber shall not terminate the liability of the Participant, who is responsible for that Subscriber, for said costs.

\*\* [Note: REALTORS shall also be personally liable for any and all costs associated with the hearing. Their obligation for said costs, however, shall be subject to the terms and conditions of their membership in the Board/Association of REALTORS.]

### **Section 2.3 KEYBOX SYSTEM**

a. The Service shall operate an electronic Keybox System for the use of its Participants and Subscribers. The Rules and Regulations governing the use of the Service's Keybox System are provided to those Participants and Subscribers who elect to use the Keybox System and pay the applicable fees. Fees and fines associated with the use of the Keybox System shall be set, and may be changed, by the Service. A schedule of such fees and fines, as well as any changes to the schedule, shall be disseminated to Participants and Subscribers by means of (i) the Service's on-line system and (ii) in any other manner determined by the Service.

b. Participants who are users of the Service's Keybox System shall be entitled to utilize keyboxes provided by the Service. Each keybox will be assigned to a Participant, who shall be responsible for the use of the keybox. The transfer of a keybox from one Participant to another Participant requires the reassignment of the keybox in the Service's Keybox System.

c. The showing instructions for a listing may only identify the use of a GSMLS keybox if an iBox BTLE keybox is being placed on the listed property. Any reference to the use of another type of keybox should be made in agent remarks.

d. All users of the Service's Keybox System may lease an ActiveKEY or an eKey upon payment of applicable fees. Only one ActiveKey or one eKEY will be issued to each user of the Keybox System.

### **Section 2.4 RIGHTS OF APPRAISER PARTICIPANTS**

Appraiser Participants are entitled to access the MLS System and are entitled to receive MLS information, subject to the terms of these Rules and Regulations. Appraiser Participants are not entitled to participate in the Service's Keybox System.

## **Section 2.5 CLERICAL USERS**

Clerical users may have access to MLS information solely under the direction and supervision of the Participant or Subscriber. Clerical users may not provide any MLS information to persons other than the Participant or Subscriber under whom they are registered. Access by clerical users to the database is solely for clerical and administrative functions for the Participant or Subscriber under whom the clerical user is registered.

## **Section 2.6 AFFILIATE PARTICIPANT INFORMATION**

Affiliate Participants may receive (but only to the extent it is consistent with the interests of the Service and other Users) from the Service, by lease, information other than current listing information that is generated wholly or in part by the Service including "comparable", "sold", information and statistical reports. This information is provided for the exclusive use of the Affiliate Participants and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise specified in the Service Rules and Regulations. Affiliate Participants hereby agree to be subject to the applicable provisions of the Service Rules and Regulations whether they participate in the Service or not.

## **Section 2.7 LISTING PROCEDURE**

The following procedure must be utilized for all listings entered into the Service's MLS system. A listing broker may enter a listing into the Service's MLS system directly (Broker Loaded), or have the Service (Service Loaded) or a Member Board (Board Loaded) enter the listing into the Service's MLS system on behalf of the listing broker. The Service may charge an administrative fee, in addition to the applicable listing fee, for Service Loaded listings. All listings entered into the Service's MLS system must follow the procedure to auto-populate tax information specified by the Service. In addition:

- a. Broker Loaded listings shall be input into the Service's MLS system by the listing broker or the listing broker's authorized representative (i.e., a licensee or clerical staff who is a User of the Service). When a listing is fully input into the MLS system, the MLS system will generate a fax cover sheet which shall be printed and used by the listing broker/authorized representative to fax the listing paperwork to the Service (to the fax number and following the procedure indicated on the fax cover sheet). Broker loaded listings must be input into the MLS system within forty-eight (48) hours of the effective date of the listing, and the listing paperwork faxed to the Service within the time period indicated on the fax cover sheet generated by the MLS system.
- b. Service Loaded/Board Loaded listings must be mailed to the Service/Member Board within forty-eight (48) hours of the effective date of the listing. Listing paperwork postmarked after that time, or not received by the Service/Member Board within ninety-six (96) hours of the effective date of the listing, shall be deemed late.
- c. Any listing will be considered excessively late if it is not input into the MLS system, and the listing paperwork faxed to/received by the Service, within ten (10) days of the effective date of the listing.
- d. The Service requires that its property data form be used by Participants. The Service shall provide a listing agreement for use by Participants. A Participant may, however, utilize his/her own listing agreement. The Service, through its legal counsel, may refuse to accept a listing agreement that fails to comply with statutory and regulatory requirements or fails to adequately protect the interests of the public and other Participants, or that fails to comply with these Rules and Regulations or establishes, directly or indirectly, any contractual relationship between the Service and the Participant's client.

In the event a Participant submits a listing agreement that fails to conform to the above, the Participant shall be responsible for the legal fees incurred by the Service with respect to the review of the listing agreement. Furthermore, in the event a Participant does not use the listing agreement provided by the Service, all

variations in listing terms from the Service's listing agreement must be disclosed in the listing placed with the Service to ensure full disclosure to cooperating brokers.

In addition to the above:

1. The Service will not accept net listings because they are deemed unethical or in New Jersey illegal. Open listings are not accepted because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers. The exclusive right to sell listing is the conventional form of listing submitted to the Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers. The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on a blanket unilateral basis, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted since they can present special risks of procuring cause, controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. Care should be exercised to insure that different codes or symbols are used to denote exclusive agency ("EA") and exclusive right to sell listings with prospect reservations.

2. Any listing taken on a Service listing form must be submitted to the Service. No Participant shall use either the format of or any form made available by the Service to the Participant to take an "office exclusive", nor shall such Participant use a Service form or format in such a manner that the taking of such listing has the effect of directly or indirectly misleading the person giving the listing into a belief that the listing will be submitted to the Service for distribution among Service Participants. All "office exclusive" listings shall be filed with the Service but will not be published. Failure to file or late filing of office exclusive listings will result in a fine. All "office exclusive" listings must be postmarked to the Service within four (4) days of final signing of the document.

3. In the event that the property owner requests that the showing of a listed property be delayed for a specified period of time following the commencement of the listing, this fact shall be disclosed in the listing (including disclosure of the end date of the delayed showing period) and a Delayed Showing of Listing form submitted to the Service. Any extension of the delayed showing period shall require the submission of a new [Delayed Showing of Listing Form](#). The initial delayed showing period and any extension(s) of the delayed showing period may not exceed ten (10) days. Any change to this delayed showing period shall immediately be submitted by the listing broker (Broker Loaded) to the Service.

4. In the event a listing is submitted that is incomplete, inaccurate or otherwise unacceptable, it will be returned to the Participant for resubmission after the listing is completed or otherwise corrected. There will be a resubmission fee charged if this is necessary, and a fine may be imposed.

5. Copies of all listing paperwork, including all listing agreements and property data forms, should be retained by Participants. The Service shall not retain copies of this paperwork.

6. No listing may be entered into the Service's MLS System that contains language which violates the Federal Fair Housing Act or any state law prohibiting discriminatory advertising. If a listing is found to contain offensive language, GSMLS may remove the field containing the offensive language. GSMLS will notify the listing agent and the listing broker (by e-mail or such other means GSMLS may elect to use) that the field containing the offensive language has been removed from the MLS system.

7. Mandatory Disclosure of Potential Requirement of Lender Approval: Participants must disclose the potential requirement of lender approval when reasonably know to the listing participants. This disclosure must be made, at the discretion of the listing broker, in either the "agent remarks" or "client remarks" section of the listing. When the potential requirement of lender approval is disclosed, participants may also, at their discretion, advise other participants whether and how any reduction in the gross commission established

in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between the listing and cooperating participants. All such remarks must be placed in the "agent remarks" section of the listing.

8. Preservation of MLS Information: All MLS Information, including photographs and remarks, used to market a property through the Service shall be retained in the MLS system as Comparable and Statistical Information after a listing expires, is withdrawn, or is sold/leased. Since Comparable and Statistical Information is needed for the preparation of comparative market analysis and appraisals, and for such other uses that may be approved by the Service, Users may not change or remove MLS Information that pertains to or describes the condition of a property, including photographs and remarks, unless it is (1) to supplement or correct previously submitted MLS Information, (2) to delete owner or tenant names, telephone numbers, or e-mail addresses, (3) to remove confidential showing instructions, such as security codes, (4) required by a third-party owner of intellectual property rights in photographs or other listing content, or (5) to make such other changes to MLS Information as may be required by these Rules and Regulations.

The following definitions are applicable to listings submitted to the Service:

An exclusive right to sell listing means a listing under which the seller appoints a real estate broker as seller's exclusive agent for a designated period of time to sell a property on the seller's stated terms, and agrees to pay the listing broker a commission when the property is sold, regardless of whether the buyer is found by the listing broker, the seller, or another broker. The exclusive right to sell listing authorizes the listing broker to offer cooperation and compensation on a blanket unilateral basis to other brokers.

An exclusive agency listing means a listing under which the listing broker acts as the exclusive agent of the seller in the sale of a property, but also reserves to the seller a right to sell the property on an unlimited or restricted basis without assistance from a broker. Under an exclusive agency listing the listing broker is paid a reduced commission or no commission when the property is sold by the seller without assistance from a broker. The exclusive agency listing also authorizes the listing broker to offer cooperation and compensation on a blanket unilateral basis to other brokers.

## **Section 2.8 TYPES OF PROPERTIES**

The following are types of properties that might be published through the Service, including types that are required to be filed with the Service and other types that may be filed with the Service at the Participant's option, provided however, that any listing submitted is entered into within the scope of the Participant's license as a real estate broker and in accord with statutory and regulatory requirements.

1. Residential.
2. Residential income.
3. Subdivided vacant lot.
4. Land and ranch.
5. Business Opportunity.
6. Motel/Hotel.
7. Mobile Homes - where permitted by law.
8. Mobile Home Parks.

9. Commercial Income.

10. Industrial.

### **Section 2.9 LISTING MULTIPLE UNIT PROPERTIES**

All properties under one ownership which are to be sold separately must be indicated individually on the listing form. When part of a listed property has been sold, proper notification should be given to the Service as follows:

- a. Each property/unit must be individually reported under contract/sold.
- b. To accomplish this in the computer, the listing broker must create a new listing (or submit one on the regular form, unsigned, with notation) and immediately report it under the contract and subsequently sold. The listing broker must then modify the original listing (in the remarks section) to include the unavailability of the unit under contract.

### **Section 2.10 LISTINGS SUBJECT TO RULES AND REGULATIONS**

Any listing contracts filed with the Service shall provide that it is subject to the Rules and Regulations of the Service upon signatures of the parties to the listing contract.

### **Section 2.11 MANDATORY FILING OF LISTINGS**

All signed Service Multiple Listing agreements for one to four unit residential properties and for vacant land are required to be submitted to the Service. Only listings of the designated types of property located within the Service Area are required to be submitted to the Service. Listings of properties located outside the Service Area will be accepted if submitted voluntarily by a Participant, but will not be required by the Service.

### **Section 2.12 EXEMPTED LISTINGS**

If a seller refuses to permit a listing to be disseminated by the Service that would otherwise be required to be listed with the Service, the listing broker shall submit to the Service a certification signed by the seller that the seller does not authorize the listing to be disseminated by the Service, together with a payment equal to the applicable listing fee. This section does not apply to office exclusive listings that comply with all regulatory requirements.

### **Section 2.13 LIMITED SERVICE LISTING**

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

- (a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s);
  - (b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s);
  - (c) advise the seller(s) as to the merits of offers to purchase;
  - (d) assist the seller(s) in developing, communicating, or presenting counter-offers; or
  - (e) participate on the seller(s) behalf in negotiations leading to the sale of the listed property
- will be identified with an appropriate code or symbol (e.g. "Ltd. Serv.") in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.



## **Section 2.14 DETAIL ON LISTINGS FILED WITH SERVICE**

A Listing Agreement or Property Data Form, when filed with the Service by the listing broker, shall be complete and accurate in every detail which is ascertained as specified on the Property Data Form. Data shall be consistent on the Property Data Form, Listing Agreement and on the Service's computer system. Failure to abide by this provision may result in a fine.

When completing Property Data Forms and loading listings onto the Service's computer system, each fill-in field should only include the specific information requested. It is the listing broker's responsibility to ensure that fill-in fields that appear on client reports do not include information the property owner considers to be confidential or that might negatively impact the ability of a cooperating broker to work with his/her client. The Agent Remarks section of a listing is to be used to provide additional information about a property to other members of the Service. The Client Remarks section of a listing is to be used to provide additional information about a property to clients. The Client Remarks section must not include information the property owner considers to be confidential or that might negatively impact the ability of a cooperating broker to work with his/her client. It is the listing broker's responsibility to ensure that no such information is included in this section. The Client Remarks section and any fill-in fields appearing on client reports should not include the following types of information: owner's name/phone number, tenant's name/phone number, listing agent's name/phone number, listing office's name/phone number, showing/special showing instructions (such as vacant, all negotiations through listing broker, etc.), selling bonus/incentives, lockbox combinations, and URL's or other references to websites or e-mail addresses.

## **Section 2.15 CHANGE TO LISTING AGREEMENT**

Any change in listed price, expiration date, extension, availability, showing instructions, ownership, or other change in the original listing agreement shall be made only when authorized in writing by the seller and such change shall be input into the MLS system, and the authorization faxed/submitted to the Service, within the time periods, and using the procedures, set forth in Section 2.7 a. through c. of these Rules and Regulations.

## **Section 2.16 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION**

Listings of property may be withdrawn from the 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, within the time periods, and utilizing the procedures, set forth in Section 2.7 a. through c. of these Rules and Regulations.

## **Section 2.17 CONTINGENCIES APPLICABLE TO LISTINGS**

Any contingency or condition of any term in a listing shall be specified and noticed to the Participants and Subscribers. 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 shall be given to the Service.

## **Section 2.18 LISTING PRICE SPECIFIED**

The full gross listing price must be stated in the listing contract.

## **Section 2.19 NO CONTROL OF COMMISSION RATES OR FEES**

The Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Service shall not fix, control, recommend, suggest, or maintain

the division of commissions or fees between cooperating Participants or between Participants and nonparticipant.

### **Section 2.20 CO-OPERATING BROKER REIMBURSING THE LISTING BROKER**

It is a matter of agreement, as stated on the Multiple Listing Agreement, between the cooperating brokers, as to whether or not the cooperating broker shall reimburse the listing broker for the listing fee or any other fees or expenses.

### **Section 2.21 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 2.22 THE MAIL FUNCTION**

The mail function is a service provided for the exclusive use of the Participants of the Service. The mail function shall only be used in connection with listed properties in the Services Multiple Listing Service or for Participant to Participant communications. The mail function shall not be used for the promotion of personal business other than to disseminate information on properties listed with the Service. A violation of this rule shall be subject to a fine. The Service retains the right to withdraw any mail messages that do not conform with this rule.

### **Section 2.23 LISTING PHOTOS AND MEDIA CONTENT**

The listing broker or listing agent must load at least one photograph of a listed property onto the MLS system for each single family residential sale or rental listing and each multi-family residential sale or rental listing. At least one photograph must be loaded onto the MLS system within seven days of the listing's entry into the MLS system, regardless of listing status. All photographs and other media content loaded onto the MLS system must be accurate and must relate to the property with respect to which it will be displayed. Logos or any other information identifying the listing broker or seller, or marketing or promotional messages made on behalf of the listing broker or seller, may not be displayed in or superimposed on any photographs or other media content loaded onto the MLS system. A listing broker may not use photographs or other media content from a prior listing of a property without the consent of the prior listing broker and, if applicable, any other owner of proprietary rights in the photographs or other media content. Photographs and other media content of an inappropriate nature are prohibited.

### **Section 2.24 LISTINGS OF SUSPENDED PARTICIPANTS AND SUBSCRIBERS**

When a Subscriber is suspended from the Service for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Service Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service by the suspended Subscriber shall be deemed transferred to that Subscriber's Participant and said Participant shall thereafter supervise and control said listing or shall designate another Subscriber who will thereafter supervise and control said listing.

When a Participant is suspended from the Service for failing to abide by a membership duty (i.e. violation of the Code of Ethics, Service Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service 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 Service beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Service for failure to pay appropriate dues, fees or charges, the Service is not obligated to provide further services, including continued inclusion of the suspended Participant's listings in the Service's compilation of current listing

information. Prior to any removal of a suspended Participant's listings from the Service, the suspended Participant will be advised by the Service of the intended removal, so that the suspended Participant may advise his/her clients. Further, the Service will send the seller(s) of any listing of a suspended Participant, a copy of the advising letter of pending removal of the listing, plus a letter of explanation from the Service.

### **Section 2.25 LISTINGS OF EXPELLED PARTICIPANTS AND SUBSCRIBERS**

When a Subscriber is expelled from the Service for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Service Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service by the expelled Subscriber shall be deemed transferred to that Subscriber's Participant and said Participant shall thereafter supervise and control said listing or shall designate another Subscriber who will thereafter supervise and control said listing.

When a Participant of the Service is expelled from the Service for failing to abide by a membership duty (i.e. violation of the Code of Ethics, Service Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees or charges), all listings currently filed with the Service 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 MLS for failure to pay appropriate dues, fees or charges, the Service is not obligated to provide further services, including continued inclusion of the expelled Participant's listings in the compilation of current listing information. Prior to any removal of an expelled Participant's listings from the Service, the expelled Participant will be advised by the Service of the intended removal, so that the expelled Participant may advise his/her clients. Further, the Service will send the seller(s) of any listing of an expelled Participant, a copy of the advising letter of pending removal of the listing, plus a letter of explanation from the Service.

### **Section 2.26 LISTINGS OF RESIGNED PARTICIPANTS AND SUBSCRIBERS**

When a Subscriber resigns from the Service, all listings currently filed with the Service by the resigned Subscriber shall be deemed transferred to that Subscriber's Participant and said Participant shall thereafter supervise and control said listing or shall designate another Subscriber who will thereafter supervise and control said listing.

When a Participant resigns from the Service, the Service is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the Service's compilation of current listing information. Prior to any removal of a resigned Participant's listings from the Service, the resigned Participant will be advised by the Service of the intended removal, so that the resigned Participant may advise his/her clients. Further, the Service will send the seller(s) of any listing of a resigned Participant, a copy of the advising letter of pending removal of the listing, plus a letter of explanation.

In the event a Participant closes its office without resigning from the Service, or in the event the Service receives no response from a Participant within ten (10) days after the Service sends written notice to the Participant by certified mail, return receipt requested, asking the Participant to contact the Service, said Participant shall be deemed to have resigned from the Service and the terms of this provision shall thereafter apply to said Participant's listings.

### **Section 2.27 EXPIRATION, EXTENSION, AND RENEWAL OF LISTINGS**

Any listing filed with the Service automatically expires on the date specified in the agreement unless notice of renewal or extension is filed with the Service prior to expiration. If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be filed with the Service. It should then be published as a new listing. Any extension or renewal of a listing must be signed by the seller(s), input by the listing broker in the database and/or filed with the Service within the

time periods, and utilizing the procedures, set forth in Section 2.7 a. through c. of these Rules and Regulations.

### **Section 2.28 TRANSFER OF ASSIGNED LISTINGS**

An active or under contract listing may be assigned by a listing broker to a new listing broker, subject to property owner consent. The transfer of an assigned listing in the MLS System from the original listing broker to the new listing broker will be made by the Service upon its receipt of a fully executed REQUEST TO TRANSFER ASSIGNED LISTING FORM.

### **Section 2.29 LISTING OF CURRENTLY LISTED PROPERTY**

A listing broker shall not enter a listing for a property into the Service if the same property is currently listed in the Service by any other broker. However, a rental listing for a property currently listed in the Service for sale, or a sale listing for a property currently listed in the Service for rent, may be entered into the Service with the written consent of the first listing broker.

## **ARTICLE III - SELLING PROCEDURES**

### **Section 3.1 SHOWINGS AND NEGOTIATIONS**

All appointments for showings and all negotiations with the seller for the purchase or leasing of listed property filed with the 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 in the "Remarks" portion of the Multiple Listing Form.
- b) if, after reasonable but diligent effort, the cooperating broker cannot contact the listing broker or agent, office manager or Participant, then the cooperating broker may contact the owner to advise the owner that the cooperating broker wishes to show the property or has a written offer which, by law must be presented. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating broker.
- c) the cooperating broker must disclose their agency status to the listing broker at the first contact with the listing broker. (Such disclosure shall be in accord with New Jersey statutes and regulations.)

### **Section 3.2 PRESENTATION OF OFFERS**

A listing broker must make arrangements to have any written offer presented as soon as possible, or give a cooperating broker a satisfactory reason for not doing so.

### **Section 3.3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER**

The cooperating broker (subagent, buyer agent or transaction broker) or their representative shall have the right to be present when an offer or counter offer they secured is presented by the listing broker to the seller. The cooperating broker does not have the right to be present at any subsequent discussion or evaluation of that offer by the seller(s) and the listing broker. However, if the seller 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 shall not have a right to be present but has the right to a copy of the seller's written instructions.

### **Section 3.4 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 seller and the listing broker. Unless a 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.

### **Section 3.5 REPORTING CHANGES IN STATUS, RESOLUTIONS OF CONTINGENCIES, AND SALE INFORMATION**

It shall be the obligation of the listing broker (i) to adjust his/her listings in the Service database to reflect or (ii) to submit to the Service:

- any changes in listing status,
- fulfillment or renewal of contingencies on pending sales (which, in turn, must be reported to the listing broker by the selling broker within 24 hours),
- changes in anticipated closing dates, and
- closed sales.

The listing broker shall make the adjustment to his/her listing in the Service database or submit the change to the Service within forty-eight (48) hours. Paperwork not received by the Service within 4 days (96 hours) shall be considered late.

Missing, or the entering of inaccurate, information by the listing broker on sold or rented listings will result in a fine.

Listing brokers shall also have the option, and are encouraged, to enter, without charge, information on sold or rented "office exclusive" listings.

## **ARTICLE IV - REFUSAL TO SELL**

### **Section 4.1 REFUSAL TO SELL**

If the seller of any listed property filed with the Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants by the listing broker.

## **ARTICLE V - PROHIBITIONS**

### **Section 5.1 "FOR SALE" SIGNS**

Only the "For Sale" sign of the listing broker may be placed on the property, subject to local ordinances and regulations.

### **Section 5.2 SOLICITATION OF LISTING FILED WITH THE SERVICE**

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

# ARTICLE VI - DIVISION OF COMMISSIONS

## Section 6.1 COMPENSATION SPECIFIED ON EACH LISTING

In filing a property with the Service, the Participant of the Service is making a blanket unilateral offer of cooperation to the other Service Participants and Subscribers, and shall therefore specify on each listing filed with the Service the compensation being offered by the listing broker to the other Service Participants and Subscribers. Specifying the compensation for each listing is necessary because the cooperating broker has the right to know what his/her compensation shall be prior to his/her endeavor to sell. The listing broker retains the right to determine the amount of compensation offered to subagents, buyer agents and transaction brokers, which may be the same or different. The Service will not accept listings which offer cooperation without compensation. The Service will not accept listings with offers of cooperation that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount nor shall they include general invitations by listing brokers to other Participants to discuss terms and conditions of possible cooperative relationships.

All offers of cooperation and compensation are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through the Service 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.

The listing broker is not precluded from offering any Service Participant compensation other than the compensation indicated on that person's listing as published by the Service, provided the listing broker informs the other broker in writing in advance 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 sale price or as a flat dollar amount.

The Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission on that person's listing contract, and the Service shall not publish the total negotiated commission on a listing which has been submitted to the Service by a Participant. The Service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

The essential and appropriate requirement by the Service is that the information to be published shall clearly inform Participants and Subscribers as to the compensation they will receive as subagents, buyer agent or transaction broker in cooperative transactions unless advised otherwise by the listing broker in writing in advance. The compensation specified on listings published by the Service shall be shown in one of the following forms:

1. By showing a percentage of the gross selling price.
2. By showing a definite dollar amount.

The offer of cooperation, however, may include the notation "NTC." The inclusion of the notation "NTC" will reflect that a participant may have provided other Participants and Subscribers with commission split notices pursuant to N.J.A.C. 11:5-7.6, and that the offer of cooperation should be deemed qualified by any such notices.

### **Section 6.2 PARTICIPANT AS PRINCIPAL**

If a Participant, or anyone affiliated with the Participant, has any interest in property, the listing of which is to be disseminated through the Service, that person shall disclose that interest when the listing is filed with the Service and such information shall be disseminated to all Service Participants.

### **Section 6.3 DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS**

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

## **ARTICLE VII - SERVICE CHARGES**

### **Section 7.1 SERVICE FEES AND CHARGES**

There shall be service charges for the operations of the Service to defray the costs of the Service and its allied functions. These are subject to change from time to time by the Service. A list of these fees along with the proper payment schedule, and any changes thereto, shall be disseminated to Participants and Subscribers by means of (i) the Service's on-line system and (ii) in any other manner determined by the Service. This list and schedule shall be considered a part of these Rules and Regulations.

a) There shall be recurring periodic "PARTICIPATION FEES" for each Participant and Subscriber that desires to have access to the Service and recurring periodic "CLERICAL USER FEES" for each clerical User provided access to the Service.

b) There shall be a "FILING OR LISTING FEE" for each listing submitted to the Service for inclusion in the Service DATABASE and publications. In the event a listing is incomplete or otherwise unacceptable and must be returned to the Participant for resubmission, a "RESUBMISSION FEE" will be charged. Additional charges may be made for listings that are input by GSMLS, LLC personnel.

c) There may be "MLS DIGEST FEES" for Service publications.

d) There shall be an "ESCROW ACCOUNT FEE" charged to non-REALTOR Participants and to non-REALTOR Subscribers associated with REALTOR offices (in accord with Article II).

### **Section 7.2 SERVICE FEES AND CHARGES ARE NON-REFUNDABLE**

The Service shall be under no obligation to refund or waive any Service fees or charges, or any portion thereof, paid or incurred prior to termination. Notwithstanding the foregoing, upon the termination of a non-

REALTOR Participant's or Subscriber's participation in the Service, the applicable Escrow Account Fee (less any amounts due pursuant to Article II hereof) will be reimbursed.

## ARTICLE VIII - COMPLIANCE WITH RULES AND FINES

### Section 8.1 ARBITRATION OF DISPUTES

By becoming and remaining a Participant, each Participant agrees to arbitrate contractual disputes with MLS Participants in different firms arising out of their relationships as MLS Participants subject to the following qualifications:

- a) If all disputants are participants of the same Board/Association of REALTORS, or have their principal place of business within the same Board's/Association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS.
- b) If the disputants are participants of different Boards/Associations of REALTORS, or if their principal places of business are located within the territorial jurisdiction of different Boards/Associations of REALTORS, they remain obligated to arbitrate in accordance with the procedures of the New Jersey Association of REALTORS.
- c) If any disputant is a non-REALTOR, the Service will arrange the venue in which to arbitrate the dispute.

Interboard Arbitration Procedures. In instances where the State Association does not provide arbitration services, arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS.

### Section 8.2 STANDARDS OF CONDUCT FOR PARTICIPANTS

- a) Participants shall not engage in any practice or take any action inconsistent with the agency of other Participants.
- b) Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.
- c) Participants acting as subagents, as buyer/tenant agents or as transaction brokers, shall not attempt to extend a listing broker's offer of cooperation and compensation to other brokers without the consent of the listing broker.
- d) Participants shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the Participant, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the Participant may contact the owner to secure such information and may discuss the terms upon which the Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.
- e) Participants shall not solicit buyer/tenant agency agreements from buyers/tenants who are subject to exclusive buyer/tenant agency agreements. However, if a buyer/tenant agent, when asked by a Participant, refuses to disclose the expiration date of the exclusive buyer/tenant agency agreement, the Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the Participant might enter into a future buyer/tenant agency agreement or, alternatively, may enter into a buyer/tenant



agency agreement to become effective upon the expiration of any existing exclusive buyer/tenant agency agreement.

f) Participants shall not use information obtained by them from the listing broker, through offers to cooperate received through the Service or other sources authorized by the listing broker, for the purpose of creating a referral prospect to a third broker, or for creating a buyer/tenant prospect unless such use is authorized by the listing broker.

g) The fact that an agency agreement has been entered into with a Participant shall not preclude or inhibit any other Participant from entering into a similar agreement after the expiration of the prior agreement.

h) The fact that a client has retained a Participant as an agent in one or more past transactions does not preclude other Participants from seeking such former client's future business.

i) Participants are free to enter into contractual relationships or to negotiate with seller/landlords, buyers/tenants or others who are not represented by an exclusive agent but shall not knowingly obligate them to pay more than one commission except with their informed consent.

j) When Participants are contacted by the client of another Participant regarding the creation of an agency relationship to provide the same type of service, and Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into future agency agreement or, alternatively, may enter into an agency agreement which becomes effective upon expiration of any existing exclusive agreement.

k) Participants are not precluded from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements with another Participant. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this rule. The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another Participant; and

Mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information intended to foster cooperation with Participants.

l) Participants, prior to entering into an agency agreement, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service.

m) Participants, acting as agents of buyers or tenants, shall disclose that relationship to the seller/landlord's agent in accord with New Jersey statutes and regulations.

n) On unlisted property, Participants acting as buyer/tenant agents shall disclose that relationship to the seller/landlord in accord with New Jersey statutes and regulations.

o) Participants shall make any request for anticipated compensation from the seller/landlord at first contact.

p) Participants, acting as agents of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants in accord with New Jersey statutes and regulations.

q) Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage). However, information received through the Service or any other offer of cooperation may not be used to target clients of other Participants to whom such offers to provide services may be made.

r) Participants, acting as subagents or buyer/tenant agents, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

s) All dealings concerning property exclusively listed, or with buyer/tenants who are exclusively represented shall be carried on with the client's agent, and not with the client, except with the consent of the client's agent.

t) These rules are not intended to prohibit ethical albeit aggressive or innovative business practices, and do not prohibit disagreements with other Participants involving commission, fees, compensation or other forms of payment or expenses.

u) Participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

### **Section 8.3 ACTION TO BE TAKEN**

a) A Participant of the Service may be expelled from the Service for failing to abide by a membership duty (i.e. violation of the Code of Ethics, Service Rules and Regulations or other membership obligations, except failure to pay appropriate fees, fines and/or charges).

b) For failure to pay any Service charge, fee or fine, except listing, filing or digest fees within one (1) month of due date, the Service will suspend the Participant or Subscriber. If a Subscriber is suspended both the Subscriber and the Participant would be subject to a fine as determined by the Service. A reinstatement charge will be charged for readmitting the Participant/Subscribers when the fees, fines or charges are paid.

c) For failure to pay any listing, filing or digest fee within one month of the due date, the Service will suspend the Participant, in which case all licensees of that Participant's office shall be considered suspended also. A reinstatement charge will be assessed the offending Participant payable before the office can be reactivated.

d) In the event of extreme or repeated non-payment for services, the Service may elect to terminate the Participant from all Service services.

### **Section 8.4 FINES**

A fine or other disciplinary action may be assessed against any Participant or Subscriber who breaks a rule of the Service. A schedule of fines shall be established and this schedule and any changes thereto will be disseminated to Participants and Subscribers by means of (i) the Service's on-line system and (ii) in any other manner determined by the Service.

## **Section 8.5 CONSIDERATION OF ALLEGED VIOLATIONS**

The Service shall establish, and may periodically amend, the procedure to be utilized for enforcement of the Service's Rules and Regulations and for review of any complaints arising therefrom. By becoming and remaining a Participant or Subscriber, each Participant or Subscriber agrees to be bound by such procedure and to participate in the grievance procedure referenced in this Article VIII.

The Board of Managers, or a committee established by the Board of Managers, shall hear and decide all written complaints from Participants having to do with a violation of these Rules and Regulations. The Board and/or committee shall only hear and decide appeals of fines and shall have no authority to hear or decide cases involving violations of ethics or matters which are the subject of arbitration.

## **Section 8.6 COMPLAINTS OF UNETHICAL CONDUCT**

All complaints of unethical conduct shall be referred to the Executive Director of the Service for appropriate action. The Executive Director, at his/her discretion, may elect to refer any such complaint for a hearing to be conducted by a Board of REALTORS.

# **ARTICLE IX - MLS INFORMATION**

## **Section 9.1 OWNERSHIP AND CONTROL OF MLS INFORMATION**

All right, title and interest in MLS Information, and control thereof, shall belong exclusively to GSMLS.

## **Section 9.2 OWNERSHIP AND CONTROL OF LISTINGS AND LISTING INFORMATION**

Notwithstanding the preceding section, all right, title, and interest in a listing, and all information pertaining to that listing, and control thereof, shall belong exclusively to the listing broker.

## **Section 9.3 USE OF LISTING INFORMATION BY THE SERVICE**

By the act of submission of any listing to the Service, the listing broker represents that he or she has been authorized to grant and also thereby does grant authority for the Service to include the listing in its copyrighted Service compilations.

## **Section 9.4 PHOTOGRAPHS SUBMITTED BY LISTING BROKERS**

By submitting photographs to the Service which were taken by the Participant or Subscriber, the submitting Participant or Subscriber grants the Service and other Users the right to reproduce and display the photographs in accordance with these Rules and Regulations.

## **Section 9.5 MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION**

The information published and disseminated by the Service is communicated verbatim, as filed with the Service by the Participant or Subscriber, without change by the Service. The Service does not verify such information and disclaims any responsibility for its accuracy. Each Participant and Subscriber agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant or Subscriber provides. In no event will the Service be liable to any User for any indirect, special or consequential damages arising out of any information published by the Service and all other damages shall be limited to an amount not to exceed the listing fee paid by the listing broker.

## **Section 9.6 USE OF MLS INFORMATION BY USERS**

In recognition that the purpose of GSMLS is to assist listing brokers to make offers of cooperation and compensation to other Participants and Subscribers for the sole purpose of selling property, and that listing brokers and sellers of properties filed with the Service have not given permission to disseminate listing information for any other purpose, Users are prohibited from using MLS Information for any purpose other than as expressly set forth in these Rules and Regulations. This prohibition does not apply to the use by a listing broker of his/her own listing information.

## **Section 9.7 DISPLAY OF MLS INFORMATION**

Subject to these Rules and Regulations, Participants and Subscribers shall be permitted to display MLS information in either electronic or printed format to specifically identified and bona fide prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing and able buyers for the properties described in the Service compilations. Participants and Subscribers shall be permitted to display MLS information in either electronic or printed format to specifically identified and bona fide prospective sellers only in conjunction with their ordinary business activities in listing properties. Appraiser participants shall be permitted to display MLS information to the person requesting the appraisal only in conjunction with their ordinary business activities of producing a written appraisal. Such displays under this section are subject to Section 9.9 hereof and shall be made only in the immediate presence of the User.

Clerical users are expressly prohibited from displaying or distributing MLS information to anyone other than the Participant or Subscribers under whom the clerical user is registered.

## **Section 9.8 REPRODUCTION OF MLS INFORMATION**

"Reproduction" shall include, but not be limited to, making photocopies, computer printouts, electronic transfers (including email), or downloading of MLS data or compilations. Users shall not reproduce any MLS Information or any portion thereof except as provided in the following limited circumstances (which circumstances are subject to Section 9.9 hereof):

- a) Participants and Subscribers may reproduce from the Service Compilation, and distribute to prospective purchasers whose identities are known to the Participants and Subscribers, the necessary number of copies of property listing data contained within the Service Compilation, which information must relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or Subscriber, be interested. The copies of property listing data distributed to the prospective purchasers shall not include information the property owner or listing broker may consider confidential, such as owner's name/phone number, tenant's name/phone number, access information, showing/special showing instructions, selling bonus/incentives, or keybox combinations.
- b) 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 Subscriber is seeking to promote interest, does not appear on such reproductions.
- c) Nothing contained herein shall be construed to preclude any Participant or Subscriber from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed with the Participant or Subscriber.
- d) Any MLS Information, whether provided in written or printed form, whether provided electronically, or whether provided in any other form or format, is provided for the exclusive use of the User. Such information may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm.

e) 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 an estimate of value on a particular property for a particular client. However, only such information that the Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting evidence. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

f) Downloading into Computers. Users may download MLS information into a computer or computer system as long as:

- Access to the computer or computer system receiving the information is strictly limited to authorized Users as defined in these rules; and
- The information is only retransmitted to Users authorized to access the computer or computer system by these rules; and
- The information is not reformatted or used to create another product.

### **Section 9.9 PROHIBITION AGAINST UNAUTHORIZED ELECTRONIC DISPLAY OR REPRODUCTION OF MLS INFORMATION**

The Service recognizes that Participants and Subscribers may be interested in pursuing the use of new technologies (including currently existing technologies and still to be developed technologies) in connection with their real estate brokerage businesses. Such new technologies may include the display or reproduction of MLS Information by means of consumer-directed search and retrieval of this information, regardless of the relationship between the consumer and any Participant or Subscriber. One example of such a technology that currently exists is what is commonly referred to as VOW's. Any such display or reproduction of MLS Information, however, can only be made with the written consent of listing brokers and the consent of GSMLS.

If a Participant or Subscriber is interested in utilizing MLS Information in connection with a VOW, or any other technology not expressly authorized by these Rules and Regulations, that Participant or Subscriber must contact the Service for authorization to use the MLS Information in that manner. If the Service determines that the proposed use of the MLS Information is consistent with controlling law, would otherwise be permitted under these Rules and Regulation except for the lack of written consent from listing brokers, and would not jeopardize the security of MLS Information, then the Service will make reasonable efforts to establish a program pursuant to which Participants will "opt in" to allow the use of their listing information in connection with the proposed technology. It is anticipated that any such program will be patterned on the Service's IDX program.

## **ARTICLE X - OWNERSHIP OF MLS COMPILATIONS AND COPYRIGHTS**

### **Section 10.1 MLS COMPILATION DEFINED**

The term "MLS compilation" includes, but is not limited to, the MLS computer database, all printouts of data from the MLS computer database, and all MLS publications.

### **Section 10.2 TITLE TO MLS COMPILATIONS VESTED IN THE SERVICE**

All right, title, and interest in each copy of every MLS Compilation created by the Service (whether in printed or electronic data form), and in the copyrights therein, shall at all times be vested in the Service.

### **Section 10.3 DISTRIBUTION AND ACCESS TO MLS COMPILATIONS**

Users shall at all times maintain control over and responsibility for each copy of any MLS Compilation, and shall not distribute any copies of MLS Compilations or allow access to any MLS Compilation to any unauthorized person, firm or company.

It shall be considered a violation by the Participant or Subscriber if a non-Participant enters a listing in the Service using that Participant's or Subscriber's Identification Number. Any fines levied on the Participant or Subscriber for the unauthorized entering of a listing by a non-Participant shall be waived if the non-Participant immediately joins the Service.

### **Section 10.4 LEASING OF MLS COMPILATIONS**

Each Participant and Subscriber shall be entitled to lease one copy of an MLS compilation. Participants and Subscribers shall acquire by such lease only the right to use the MLS compilations in accordance with these Rules and Regulations. Clerical users may have access to the information solely under the direction and supervision of the Participant or Subscriber. Clerical users may not provide any MLS compilation or information to persons other than the Participant or the Subscriber under whom the clerical user is registered.

## **ARTICLE XI - ADVERTISING**

### **Section 11.1 ADVERTISING OF LISTINGS OR LISTING INFORMATION OBTAINED FROM THE SERVICE**

No listing, or listing information, submitted to the Service by a listing broker may be advertised, or used in an advertisement, by a Participant or Subscriber other than the listing broker, without the prior written consent of the listing broker. Advertising shall include all forms of marketing, including the use of electronic mediums. Providing access to a broker's exclusive listings or listing information through the use of electronic mediums shall constitute advertising for purposes of these Rules and Regulations. The dissemination of listings through the Service's private listing database (i.e., the Service's computer system) or through the Service's public website (i.e., GSMLS.com) does not constitute the consent required by N.J.A.C. 11:5.6.1(n) for the advertisement of listings exclusively listed for sale by another broker. Any such consent must be obtained in writing from the listing broker.

### **Section 11.2 PUBLIC MASS MARKET ADVERTISING**

Use of information from the Service for public mass-media advertising by a Participant or Subscriber, or in other public representations, is not prohibited provided there is no specific reference to, or disclosure of, current listing information or confidential information relating to any listings of other Participants. However, any advertisement or other forms of public representations based in whole or in part on information supplied by the Service must clearly demonstrate the period of time over which such claims are based and must include the following notice:

"NOTE: This representation is based in whole or in part on data supplied by the Garden State Multiple Listing Service, L.L.C. ("GSMLS"). GSMLS does not guarantee nor is in any way responsible for its accuracy. Data maintained by GSMLS may not reflect all real estate activity in the market"

### **Section 11.3 THE SERVICE'S PUBLIC WEBSITE**

As a service to its Participants, the Service operates a public website (GSMLS.com) on which Participants may advertise their listings. Advertising of listings on this public website is optional. Such advertising shall be limited to non-confidential listing information. Framing of, or deep-linking to, this public website is prohibited.

### **Section 11.4 THIRD PARTY AGGREGATION SITES**

The Service will provide reasonable assistance to Participants in transmitting their listings to third party aggregation sites. Participants shall have exclusive control over which, if any, third party aggregation sites their listings will be transmitted to. Any such transmissions will be made in accord with an Authorization and Indemnification Agreement between the Service and Participant.

### **Section 11.5 IDX PROGRAM**

**11.5.1 PROGRAM GUIDELINES:** The Service operates an Internet Data Exchange ("IDX") program. This IDX program permits those Participants and Subscribers who participate in the IDX program to advertise IDX Data (as defined below) through limited electronic display by those Participants and Subscribers on their websites and through displays using applications for mobile devices that they control. Since listing brokers own/control their own listings and listing information, individuals wishing to participate in GSMLS's IDX program will have to affirmatively elect to do so, i.e., "opt in."

GSMLS's IDX program is a stand alone IDX program. It is not tied to a Participant's transmission of listings to third party aggregation sites or the advertising of listings on the Service's public website. Individuals may elect to participate in GSMLS's IDX program without electing to forward their listings to aggregation sites and/or advertising their listings on the Service's public website

**11.5.2 GENERAL TECHNICAL ISSUES:** GSMLS's IDX program provides a download capability that allows individuals participating in the IDX program to download IDX Data to their own databases. GSMLS places IDX Data in a segregated database from which it can be downloaded. This database is password protected. Passwords are provided to those individuals participating in the IDX program. Additional IDX display technology, such as a framing option, is also provided.

**11.5.3 PARTICIPATION IN GSMLS'S IDX PROGRAM:** Any GSMLS Participant involved in the real estate brokerage business who wishes to participate in GSMLS's IDX program is required to affirmatively "opt in" to the IDX program by entering an IDX Agreement with the Service. In doing so, that individual agrees to place his/her listings into GSMLS's IDX database and all of that individual's listings, except those expressly excluded as set forth below, will automatically be loaded by GSMLS into the IDX database. These listings will be available for advertising by other individuals who elect to participate in the IDX program. Any individual who does not affirmatively "opt in" to the IDX program will not be provided access to the IDX database and shall not be entitled to advertise the IDX listings of other Participants.

GSMLS recognizes that there may be instances where an individual who has elected to participate in the IDX program may not be able to place a particular listing into the IDX program. Therefore, an individual who has elected to participate in the IDX program may exclude listings from the IDX program. This will need to be expressly done on a listing-by-listing basis. In the event an individual excludes more than fifty (50%) percent of his/her listings, that individual will be deemed to have withdrawn from the IDX program.

GSMLS also recognizes that listing brokers may be willing to allow other brokers to advertise their listings but may not be willing to allow all real estate agents to do so. Accordingly, Participants may opt into the IDX program but limit the advertising of their IDX Data to other GSMLS Participants.

**11.5.4 SUBSCRIBER PARTICIPATION IN THE IDX PROGRAM:** GSMLS Participants are responsible for the actions of their Subscribers. Accordingly, participation in the IDX program by a GSMLS Subscriber is subject to the authorization of that individual's Participant.

11.5.5 IDX DATA/LISTING INFORMATION: IDX Data includes, and is limited to, the listing information, open house information, and sold information placed in GSMLS' IDX database. The only listing information that will be loaded into the IDX database will be the non-confidential listing information that GSMLS transmits to aggregation sites on behalf of listing brokers. If authorized by the listing broker, listing addresses and open house information will also be loaded into the IDX database.

11.5.6 ADVERTISING OF IDX DATA: The advertising of IDX Data is subject to the following requirements:

- Listing brokers have the option, but are not required, to include identifying information (i.e., names of listing broker/listing agent, address, telephone number) in the listings they place into the IDX database. To the extent this information is included by the listing broker, other individuals participating in the IDX program must include at least the listing broker's name in the IDX advertising of that listing. The listing broker shall be identified in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of IDX listing data.

- Individuals participating in the IDX program who elect to advertise IDX Data are prohibited from modifying or altering the IDX Data they advertise. Furthermore, all information relating to specific IDX Data must be included in the IDX advertisement of that Data. (The only exception is for "thumbnail" listings that are the initial results of a search.)

- Individuals participating in the IDX program who elect to advertise IDX Data are required to update the display of IDX Data not less frequently than every twelve (12) hours.

- Individuals participating in the IDX program who elect to advertise IDX Data have the option to select which IDX Data they wish to advertise.

- All IDX displays must be controlled by the individual participating in the IDX program. "Control" shall mean the ability to add, delete, modify, and update IDX Data in accord with the requirements of these rules and regulations. All displays of IDX Data must also be under the actual and apparent control of the individual participating in the IDX program, and must be presented to the public as being that individual's display.

- Individuals participating in the IDX program may not use IDX Data for any purpose other than display as provided for in these IDX rules.

- Additional requirements relating to the IDX program and the display of IDX Data are included in the IDX Agreement that must be executed by each individual participating in the IDX program.

- Participation in the IDX program does not authorize a Participant or Subscriber to advertise any MLS information that is not included in the IDX database.

11.5.7 NOTICES: Notices regarding the source of IDX Data, consumer restrictions, disclaimers, and other relevant issues will be provided with the IDX Agreement executed by individuals opting into the IDX program and will need to be included with the display of IDX Data as a condition of participating in the IDX program.

11.5.8 INDEMNIFICATION: Any individual advertising IDX Data agrees to indemnify and hold GSMLS and other IDX Participants harmless from any claims and damages arising from such IDX activity.

## **Section 11.6 VIRTUAL OFFICE WEBSITES (VOWs)**

Note: The Service has been advised by the New Jersey Real Estate Commission (NJREC) that the NJREC considers the display of listing information on a VOW to be advertising and, as such, subject to all New Jersey laws and regulations relating to advertising. Therefore, in addition to any obligations imposed upon



Participants and Subscribers under these Rules and Regulations relating to the operation of a VOW, Participants and Subscribers must ensure that the operation of a VOW complies with all New Jersey laws and regulations relating to advertising.

11.6.1 (a) A Virtual Office Website (“VOW”) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by New Jersey, or the applicable state’s, laws and regulations) where the consumer has the opportunity to search MLS Listing Information (as defined below), subject to the Participant’s oversight, supervision, and accountability. A Subscriber affiliated with a Participant may, with his or her Participant’s consent, operate a VOW. Any VOW of a Subscriber is subject to the Participant’s oversight, supervision, and accountability.

(b) As used in this Section 11.6 relating to VOWs, the term “Participant” includes a Participant’s Subscribers – except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all VOWs, whether operated by a Participant, by a Subscriber, or by an Affiliated VOW Vendor (“AVV”) on behalf of a Participant.

(c) “Affiliated VOW Vendor” (“AVV”) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s oversight, supervision, accountability, and compliance with this VOW Policy. No AVV has independent participation rights in the Service by virtue of its receipt of the Service’s VOW Data Feed on behalf of a Participant. No AVV has the right to use MLS Listing Information from the Service’s VOW Data Feed except in connection with the operation of VOWs on behalf of one or more Participants. Access by an AVV to MLS Listing Information through the Service’s VOW Data Feed is derivative of the rights of the Participant on whose behalf the AVV operates a VOW. An AVV may not be given access to any MLS Information from any source other than the Service’s VOW Data Feed.

(d) As used in this Section 11.6 relating to VOWs, the term “MLS Listing Information” refers to any MLS Information provided through the Service’s VOW Data Feed.

11.6.2 (a) A Participant who intends to operate a VOW to display MLS Listing Information must first notify the Service of his/her intention to establish a VOW. The Participant will then be required to execute a “Participant VOW Agreement” prior to being given access to the Service’s VOW Data Feed. A Subscriber who intends to operate a VOW to display MLS Listing Information must first notify the Service of his/her intention to establish a VOW. The Subscriber and his/her Participant will then be required to execute a “Subscriber VOW Agreement” prior to the Subscriber being given access to the Service’s VOW Data Feed. Any Participant or Subscriber operating a VOW must make the VOW readily accessible to the Service and to all Service Participants for purposes of verifying compliance with these Rules and Regulations and any other applicable Service rules or policies.

(b) If a Participant intends to use the services of an AVV to operate a VOW on the Participant’s behalf, the Participant will be required to execute a “Request For Authorization Of AVV”. If the AVV is authorized by the Service, then the AVV will be required to execute an “AVV Access, Confidentiality, and Nondisclosure Agreement” before the AVV is given access to the Service’s VOW Data Feed.

(c) The Service’s VOW Data Feed will include non-confidential VOW listing information, as defined by the Service, for all residential listings input into the Service’s MLS System and for which consent has been given for inclusion in the Service’s VOW Data Feed. At the time a residential listing is input into the MLS System, the listing broker will be required to provide the following information:

- Whether the listing broker consents, pursuant to N.J.A.C. 11:5.6.1(n), to the advertisement of the listing on VOWs.
- Whether the property owner grants permission for the property address to be displayed on VOWs.

- Whether the property owner has requested that the display of automated valuation of the property be disabled.
- Whether the property owner has requested that the display of third party comments be disabled.

If a property owner requests that any of the above information be withheld from display on VOWs, such request must be in writing signed by the property owner. The listing broker must maintain a copy of the signed request and have it available for submission to the Service upon request.

11.6.3 (a) A Participant may display MLS Listing Information obtained from the Service's VOW Data Feed together with MLS Listing Information supplied by other MLS(s) in which the Participant has participatory rights, provided Participant identifies the source of all such MLS Listing Information.

(b) Subject to the provisions of these Rules and Regulations and New Jersey laws and regulations, a Participant's VOW, including any VOW operated on behalf of a Participant by an AVV, may provide other features, information, or functions, e.g. Internet Data Exchange ("IDX").

(c) Except as otherwise provided in these Rules and Regulations, a Participant need not obtain separate permission from other Service Participants whose listings will be displayed on the Participant's VOW as long as the listings that will be displayed on the Participant's VOW are included in the Service's VOW Data Feed.

11.6.4 (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 New Jersey, or the applicable state's, laws and regulations), including completion of all actions required by New Jersey, or the applicable state's, laws and regulations in connection with providing real estate brokerage services to clients and customers (hereinafter "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

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

(iii) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

(b) The Participant must assure that each Registrant's password expires on a date certain but may provide for renewal of the password. The Participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The Participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant's password, or such greater period of time as may be required by New Jersey, or the applicable state's, laws and regulations.

(c) If the Service 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 the Service's Rules and Regulations, the Participant shall, upon request of the Service, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the Service, provide an audit trail of activity by any such Registrant.

(d) The Participant shall require each Registrant to review, and affirmatively to express agreement (in accord with all requirements that may be imposed by New Jersey, or the applicable state's, laws and regulations) 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 and agrees that the Service and/or its Participants are the sole and exclusive owners of any and all rights, including all Intellectual Property rights and Proprietary Rights, in the MLS Listing Information.

(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 Service, and other Service Participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS Rules and Regulations 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.

11.6.5 In addition to any other requirements imposed by New Jersey, or the applicable state's, laws and regulations, 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 Subscriber, 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.

11.6.6 A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. The Service may elect to require Participants to employ specific security measures.

11.6.7 A Participant's VOW shall not display any MLS Information not included in the Service's VOW Data Feed. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, MLS Information in accord with these Rules and Regulations.

#### 11.6.8

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

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. A seller's request to disable or discontinue either or both of those features may be included in the Service's VOW Data Feed. If such a request is included in the Service's VOW Data Feed for a particular listing, the Participant must comply with this request. Subject to all applicable laws and regulations, and subject to the other provisions of this VOW policy, 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."

11.6.9 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 Service and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment. The terms of this provision are subject to any stricter or additional obligations that may be imposed on the Participant under applicable laws and regulations.

11.6.10 A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least daily.

11.6.11 Except as provided in these rules and regulations, or any other applicable Service rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

11.6.12 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.

11.6.13 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, and type of property.

11.6.14 A Participant may operate more than one VOW himself or herself or through an AVV. A Participant who operates his or her own VOW may contract with an AVV to have the AVV operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVV is subject to the oversight, supervision and accountability of the Participant and is subject to all applicable laws and regulations.

11.6.15 A Participant's VOW may not make available for search by, or display to, Registrants any MLS Information not included in the Service's VOW Data Feed.

11.6.16 A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW from the content as it is provided in the Service's VOW Data Feed. The Participant may, however, display on a VOW additional information from sources other than the Service, provided such additional information is not otherwise prohibited by these Rules and Regulations or by applicable laws and regulations, and as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the supplied information fields

11.6.17 A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS Listing Information displayed on the VOW is deemed reliable but is not guaranteed accurate by the Service. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability. A Participant's VOW must include any disclaimers or notices that may be required by the Service or applicable laws and regulations.

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

11.6.19 A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 200 current listings and not more than 200 sold and/or off-market listings in response to any inquiry.

11.6.20 A Participant shall require that Registrants' passwords be reconfirmed or changed at least every 90 days.

11.6.21 Provided it complies with all New Jersey, or the applicable state's, laws and regulations, including all New Jersey, or the applicable state's, laws and regulations relating to advertising, a Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding.

11.6.22 A Participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the Service, to identify the source of the listing.

## 2018 GSMLS SERVICE FEES

<b>PARTICIPATION FEE</b>	<b>\$ 125.00</b>
<b>* BILLED TWICE A YEAR TO OFFICES</b>	
<b>* JANUARY 1ST &amp; JULY 1ST @ \$62.50 EACH</b>	
<b>* WILL ACCEPT SEPARATE CHECKS FROM SUBSCRIBERS</b>	
<b>CLERICAL USER FEE (PER CLERICAL USER) .</b>	<b>\$ 36.00</b>
<b>*BILLED TWICE A YEAR TO OFFICES (\$18.00 PER BILLING)</b>	
<b>FILING OR LISTING FEE</b>	<b>\$ 25.00</b>
<b>* PER LISTING FOR ALL PROPERTY TYPES</b>	
<b>* BILLED MONTHLY TO THE OFFICES/OFFICE TO MAKE PAYMENT</b>	
<b>ADDITIONAL FEE FOR GSMLS ENTERING LISTING INTO SERVICE</b>	<b>\$ 10.00</b>
<b>GSMLS MAKING ADMINISTRATIVE CHANGE TO LISTING BY REQUEST</b>	<b>\$ 5.00</b>
<b>NON-REALTOR OFFICE ESCROW</b>	<b>\$ 1,500.00</b>
<b>NON-REALTOR IN REALTOR OFFICE SUBSCRIBER ESCROW</b>	<b>\$ 1,500.00</b>
<b>NON-REALTOR IN NON-REALTOR OFFICE SUBSCRIBER ESCROW</b>	<b>\$ 500.00</b>

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### **GARDEN STATE MULTIPLE LISTING SERVICE FINES FOR INFRACTIONS OF THE FOLLOWING RULES:**

<b>ANY VIOLATION OF THE SERVICE'S RULES AND REGULATIONS FOR WHICH A FINE IS NOT OTHERWISE SPECIFIED</b>	<b>\$ 25.00</b>
<b>FAILURE TO INPUT BROKER-LOADED LISTING WITHIN 48 HOURS</b>	<b>\$ 100.00</b>
<b>FAILURE TO FAX BROKER-LOADED LISTING PAPERWORK WITHIN TIME PERIOD ON FAX COVER SHEET</b>	<b>\$ 100.00</b>
<b>FAILURE TO MAIL/FAX SERVICE/BOARD LOADED LISTING WITHIN 48 HOURS</b>	<b>\$ 100.00</b>
<b>FAILURE TO HAVE HARD COPY OF SERVICE/BOARD LOADED LISTING RECEIVED BY SERVICE/BOARD WITHIN 96 HOURS OF EFFECTIVE DATE OF LISTING</b>	<b>\$ 100.00</b>
<b>EXCESSIVELY LATE LISTING; MORE THAN 10 DAYS</b>	<b>\$ 100.00</b>

<b>UNEXPLAINED SINGLE SIGNATURE OR MISSING SIGNATURES</b>	<b>\$ 25.00</b>
<b>RESUBMISSION FEE</b>	<b>\$ 10.00</b>
<b>MISSING, INACCURATE, OR CONFLICTING MANDATORY DETAIL ON LISTING</b>	<b>\$ 25.00</b>
<b>SUBMISSION FEE</b>	<b>\$ 10.00</b>
<b>PROHIBITED INFORMATION IN CLIENT REMARKS (First Offense)</b>	<b>\$ 100.00</b>
(Subsequent offenses)	<b>\$ 200.00</b>
<b>LATE REPORTING OF UNDER CONTRACT</b>	<b>\$ 25.00</b>
<b>FAILURE TO REPORT A CLOSED SALE WITHIN 48 hours</b>	<b>\$ 25.00</b>
<b>MISIDENTIFYING THE LISTING BROKER/AGENT AS THE SELLING BROKER/AGENT WHEN A COOPERATING BROKER/AGENT WAS THE SELLING BROKER/AGENT</b>	<b>\$ 100.00</b>
Subsequent Offenses	<b>\$ 200.00</b>
<b>LATE BROKER-LOADED LISTING STATUS CHANGE OR LATE FILING OF PAPERWORK FOR BROKER-LOADED CHANGE</b>	<b>\$ 25.00</b>
<b>LATE SERVICE-LOADED PAPERWORK FOR LISTING STATUS CHANGE</b>	<b>\$ 25.00</b>
<b>FAILURE TO LOAD A LISTING PHOTOGRAPH WITHIN SEVEN DAYS OF THE ENTRY OF A SINGLE FAMILY OR MULTI-FAMILY RESIDENTIAL LISTINGS</b>	<b>\$ 25.00</b>
<b>FAILURE TO FILE OR LATE FILING (POSTMARKED WITHIN 4 DAYS) OF OFFICE EXCLUSIVE LISTING AGREEMENTS</b>	<b>\$ 100.00</b>
Subsequent Offense by the Same Office	<b>\$ 200.00</b>
<b>FAILURE FOLLOW THE PROPER PROCEDURE OR FAILURE TO FILE THE PROPER PAPERWORK WHEN THE SHOWING OF A LISTING IS TO BE POSTPONED FOR A SPECIFIED PERIOD OF TIME</b>	<b>\$ 100.00</b>
Subsequent Offense by the Same Office	<b>\$ 200.00</b>
<b>EXCLUSIVE LISTING ON GARDEN STATE FORM</b>	<b>\$ 25.00</b>
<b>IF A NON MEMBER ENTERS A LISTING INTO THE SERVICE UNDER ANOTHER RECIPIENTS ID NUMBER THE PARTICIPANT (BROKER OR OFFICE MANAGER) WILL BE FINED</b>	<b>\$ 100.00</b>
Subsequent Offense by the Same Office	<b>\$ 200.00</b>
<b>IMPROPER USE OF THE MAIL FUNCTION .....</b>	<b>\$ 25.00</b>

**UNAUTHORIZED ADVERTISING OF LISTING OR LISTING INFORMATION FROM THE SERVICE**

<b>First Offense</b> .....	<b>\$ 200.00</b>
<b>Second Offense</b> ..... and one month suspension from the Service.	<b>\$ 500.00</b>
<b>Subsequent Offense</b> ..... Board of Managers with a maximum fine of \$1,000.00 and possible immediate suspension or expulsion from the Service.	<b>Referral to the</b>

**VIOLATION OF CONFIDENTIALITY, OR MISUSE, OF MLS INFORMATION**

**Referral to Board of Managers with maximum of ..... \$1,000.00 and possible immediate suspension or expulsion**

**The reinstatement fee for offices for non-payment of fines, dues etc. is \$10.00 per service recipient.**

**VIOLATION OF KEYBOX SYSTEM**

<b>A.) Loaning out a keypad</b>	<b>\$ 200.00</b>
<b>B.) Not reporting a missing keypad within 48 hours</b>	<b>\$ 300.00</b>
<b>C.) Identifying the use of a GSMLS keybox in a listing's showing instructions without placing a GSMLS iBox BTLE on the listed property</b>	
<b>First Offense</b>	<b>\$ 100.00</b>
<b>Subsequent Offenses</b>	<b>\$ 200.00</b>

NOTE: The fines stated were established by the original owners of GSMLS, the Board of Realtors. New fine amounts will be considered by the GSMLS ML Committee and referred to the GSMLS Board of Managers for approval.

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## Current GSMLS Service Area

The following towns in Bergen County: Allendale, Franklin Lakes, Glen Rock, Ho-Ho-Kus, Mahwah, Midland Park, Oakland, Ramsey, Ridgewood, Saddle River, Upper Saddle River, Waldwick, and Wyckoff.

All of Essex County

All of Hunterdon County

All of Morris County

All of Passaic County

All of Somerset County

All of Sussex County

All of Union County

All of Warren County

## **RULES AND REGULATIONS OF THE GSMLS, L.L.C. KEYBOX SYSTEM**

Set forth below are the rules and regulations applicable to all users of the Garden State Multiple Listing Service, L.L.C. ("ORGANIZATION") electronic keybox system ("the Service"). All users of the Service (each user hereinafter referenced as "KEYHOLDER") agree to abide by, and be bound by, these rules and regulations and any amendments thereto.

### **1. Status**

A KEYHOLDER must be a member in good standing of the ORGANIZATION (i) who holds a valid real estate brokerage license for the ORGANIZATION's service area ("Broker"), or (ii) is affiliated with a real estate broker and holds a valid real estate license for the ORGANIZATION's service area ("Agent"). Suspension or expulsion from the ORGANIZATION shall also result in suspension or expulsion from the Service. If KEYHOLDER is an Agent, KEYHOLDER shall notify the ORGANIZATION's ADMINISTRATOR (within 24 hours) in writing following the termination of his or her affiliation with a Broker. Upon such termination, KEYHOLDER may continue using the Service once that KEYHOLDER becomes affiliated with another Broker within five (5) business days of such termination and notifies the ORGANIZATION's ADMINISTRATOR in a manner satisfactory to the ADMINISTRATOR within 24 hours of the change of affiliation. Such notice must also be executed by KEYHOLDER's new Broker.

### **2. Use of the Service**

A KEYHOLDER shall be entitled to use the Service upon the lease of Equipment and payment of the System Fee provided in the applicable KEYHOLDER Lease Agreement ("Lease").

### **3. Termination of the Service**

- a. A KEYHOLDER may terminate his or her use of the Service at any time by returning, at such place and in such manner as the Administrator shall designate, the Equipment. Any unused portion of any fee for use of the Service previously paid shall be forfeited by KEYHOLDER. KEYHOLDER's failure to timely pay the System Fee shall be deemed an election by KEYHOLDER to terminate his or her use of the Service. If this occurs KEYHOLDER shall return the Equipment as set forth herein. In the event KEYHOLDER desires to continue using the Service,

KEYHOLDER shall be entitled to do so upon payment of the System Fee and a Reactivation Fee established by the ORGANIZATION.

- b. The ORGANIZATION or its ADMINISTRATOR may terminate a KEYHOLDER's use of the Service at any time with cause, with no notice.
- c. Upon termination of a KEYHOLDER's use of the Service, or in the event that the ORGANIZATION or its ADMINISTRATOR determines that it must take action for security purposes, the ADMINISTRATOR may deactivate the Equipment.

#### **4. Possession of Key**

KEYHOLDER may lease and possess only one eKey or one ActiveKey (the "Key") at a time. The Key operates the KeyBox. If KEYHOLDER loses or requires a replacement of the Key for any reason, KEYHOLDER shall pay an issuance fee for each replacement Key.

#### **5. Current Update Code**

KEYHOLDER acknowledges that the Key has an update code which expires every twenty-four (24) hours, which prohibits further use of the Key until a new current update code is obtained from the ORGANIZATION or its ADMINISTRATOR (hereinafter defined) and entered by the KEYHOLDER into the Key. Update codes shall be issued only to KEYHOLDERS in good standing with the ORGANIZATION and who are in compliance with the Lease, including these Rules and Regulations.

#### **6. Security of Key and KeyBoxes**

KEYHOLDER acknowledges that it is necessary to maintain the security of the Key and its Personal Identification Number ("PIN") to prevent its use by unauthorized persons. Therefore, KEYHOLDER agrees as follows:

- (a) to keep the Key in KEYHOLDER's possession or in a safe place at all times;
- (b) not to allow KEYHOLDER's PIN to be attached to the Key or other Equipment for any purpose whatsoever or to be disclosed by KEYHOLDER to any third party;
- (c) not to lend or otherwise transfer the Key to any other person or entity, or permit any other person or entity to use the Key for any purpose whatsoever, whether or not such other person or entity is a real estate broker or salesperson;
- (d) not to duplicate the Key or allow any other person to do so;
- (e) not to assign, transfer or pledge the Key;
- (f) not to destroy, alter, modify, disassemble or tamper with the Key or knowingly or unknowingly allow anyone else to do so;
- (g) to notify the ORGANIZATION's ADMINISTRATOR immediately in writing (within 48 hours) of a loss or theft of the Key or any KeyBoxes, and of all circumstances surrounding such loss or theft;
- (h) to complete and deliver to the ORGANIZATION's ADMINISTRATOR a stolen Key affidavit prior to and as a condition of the issuance of a replacement Key;
- (i) to follow all additional security procedures as specified by the ORGANIZATION or its ADMINISTRATOR; and

- (j) to safeguard the code for each KeyBox from all other individuals and entities, whether or not they are authorized KEYHOLDERS of the Service.

**7. Authorization**

Before the KEYHOLDER installs or uses any KeyBox on real property, KEYHOLDER shall obtain written authorization from the property owner to do so, as well as from any tenant(s) in possession of the property, if applicable. KEYHOLDER shall use extreme care to ensure that all doors to the listed property and the KeyBox are locked. KEYHOLDER agrees to disclose to the property owner and tenant(s), if applicable, that the KeyBox is not designed or intended as a security device.

**8. Default**

The occurrence of any of the following events shall constitute an Event of Default by KEYHOLDER under these Rules and Regulations: (i) if the Key is lost or stolen; (ii) if KEYHOLDER permits an unauthorized person or entity to possess or use the Key; (iii) if KEYHOLDER fails to pay when due any amount required to be paid by it in connection with the use of the Service; (iv) if KEYHOLDER breaches or fails to observe, keep and perform each of these Rules and Regulations or any obligation or provision of any agreement executed and delivered by KEYHOLDER in connection with the use of the Service; or (v) if ORGANIZATION or its ADMINISTRATOR, in its respective discretion, determines that it must declare a default and take appropriate action for security purposes.

**9. Remedies**

Upon the occurrence of an Event of Default by KEYHOLDER under the Lease and/or these Rules and Regulations, the ORGANIZATION may (a) cause KEYHOLDER's Key to be deactivated; (b) take legal action against KEYHOLDER to recover all damages resulting from such default and/or improper use of the Key; and/or (c) pursue any other remedy available at law or in equity. In addition to the foregoing, ORGANIZATION shall establish fines relating to the violation of these Rules and Regulations.

**10. System Fees**

KEYHOLDER acknowledges that the System Fee and any other fees payable in connection with the use of the Service may be adjusted pursuant to the terms and provisions of the ORGANIZATION's agreement with the KeyBox System supplier ("SUPRA").

**11. Software License**

No title or ownership of any Software or any of its components is transferred to KEYHOLDER, and KEYHOLDER's use of any Software in connection with the Service constitutes a revocable license. Title to all applicable rights in patents, copyrights and trademarks shall remain with SUPRA, and KEYHOLDER agrees to take appropriate action to maintain the confidentiality of the Software and its components.

**12. Warranties**

ORGANIZATION has contracted with SUPRA for SUPRA's warranty of KeyBoxes and Keys used in connection with the Service. In the event a Key or KeyBox is defective, KEYHOLDER should contact ORGANIZATION's ADMINISTRATOR regarding the defective component. KEYHOLDER shall be responsible for the payment of any shipping or handling costs associated with obtaining a replacement component from SUPRA.

**13. Indemnity**

Neither the ORGANIZATION, the ORGANIZATION's ADMINISTRATOR(S), nor SUPRA shall have any liability for the KEYHOLDER's lost business, direct damages, incidental or consequential damages. KEYHOLDER agrees to indemnify, defend and hold harmless ORGANIZATION, the ORGANIZATION's Administrator(s), and SUPRA, and their respective officers, directors, employees, agents, representatives, successors and assigns, from and against any and all claims, demands, actions, losses, liabilities, costs and expenses of every kind and nature, including reasonable attorneys' fees, arising out of, relating to or incurred by reason of or in connection with the use by KEYHOLDER of the Key, KeyBoxes, the Service or any other component of the Service. The provisions of this paragraph shall survive indefinitely.

**14. Acknowledgment**

KEYHOLDER acknowledges that neither the Service, the KeyBoxes nor the Keys, nor any other SUPRA product used in connection with the Service is a security system. The Service is a marketing convenience key control system, and as such, any loss of Keys or disclosure of Personal Identification Numbers compromises the integrity of the Service. KEYHOLDER shall use its best efforts to insure the confidentiality and integrity of all components of the Service. KEYHOLDER further acknowledges that use of the Service is subject to the continuation of the ORGANIZATION's contract with SUPRA. KEYHOLDER hereby waives any right to exercise any right or remedy arising under, relating to or by virtue of the termination of the ORGANIZATION's contract with SUPRA.

Revised: June 25, 2018