



# *MLS Rules and Regulations*

Revision 22

*Outer Banks Association of REALTORS®*  
**MLS Rules and Regulations**

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**RULES AND REGULATIONS  
OF THE MULTIPLE LISTING SERVICE  
OF THE OUTER BANKS ASSOCIATION OF REALTORS®, INC.  
*REVISED April 16, 2009 22<sup>nd</sup> Revision***

**SECTION 1--LISTING PROCEDURES**

- 1.1 All listings of properties located within the territorial jurisdiction of the Outer Banks Association of REALTORS® (Dare County) must be entered into the computerized data bank of the Multiple Listing Service (MLS) within 72 hours of effective date of listing or after all necessary signatures of Seller(s) and listing firm have been obtained whichever is later. Within that same time period, the listing firm must submit a copy of the listing to the MLS office. Property data input forms will be supplied by the MLS for duplication and use by the participants. Participants may enter into the MLS data bank listings of properties located in counties adjoining Outer Banks Association's jurisdiction. Participants may not enter in the MLS data bank listings of properties other than those within the Outer Banks Association's jurisdiction and the counties of Tyrrell, Camden, Hyde, Currituck, Perquimans, Pasquotank, Chowan, Gates, Hertford, Washington, Bertie, Martin. Participants may not enter into the MLS open or net listings. The Exclusive Right to Sell and the Exclusive Agency listing shall be the only listing agreements accepted by the MLS for publication. This does not preclude Participants from accepting all other types of listings. (7/25/07)
- 1.2 The exclusive agency listing is a contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker. 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. (Revised 11/06)
- 1.3 DEFINITIONS:
- 1.3.1 “Calendar Days” – All days of the week including weekend days and Federal and Postal Holidays.
- 1.3.2 “Enter” – The term enter is used to describe the process of using the computer to input listing information into the MLS.
- 1.3.3 “Submit” – The term submit is used to describe the action of getting a copy of the listing agreement or other document to the MLS office.

- 1.3.4 “Personal Promotion” – The display of any identifying information within the Multiple Listing Service that would encourage or promote the public to have access to the listing agent or firm outside of the required agency fields. Addendums and other documents relating to the listing or other disclosures as required by law with associated documents of a listing are not to be considered personal promotion. *(Revised 6/06)*
- 1.3.5 “Place Holder” – An entry in a required field in place of information that can be obtained by due diligence. When verifiable information of a required field is absent or unobtainable, it must be disclosed in the Broker Notes. *(Revised 6/06)*
- 1.4 TYPES OF PROPERTIES: Only recorded properties may be filed with the Service.
  - 1.4.1 Except as further provided in this Section, only recorded real properties or leasehold properties, with the original lease term of 36 months or greater, may be filed with the service. *(Revised 12/06)*
  - 1.4.2 Properties that are referenced by an approved preliminary plat for which a final plat has not yet been received from the appropriate governing bodies may be listed with the following conditions:
    - 1.4.2.1 The listing agreement filed with the service is accompanied by a certification of the listing agent that the preliminary plat has been approved by the appropriate governing body (ies).
    - 1.4.2.2 The remarks must contain the following language: “Final subdivision plat has not been approved or recorded and is subject to change. A contract may be terminated without breach, if the final record plat differs in any material respect from the preliminary plat (per NCGS 153A-334). *(Revised 7/06)*
  - 1.4.3 Condominiums for which the Declaration of Condominium which will create the condominium has not yet been recorded at the Register of Deeds, may be listed with the following conditions: *(Revised 10/06)*
    - 1.4.3.1 The listing agreement, filed with the service, is accompanied by a certification of the listing agent that a proposed Public Offering Statement plus all required attachments thereto, including, but not limited to, the Declaration to create the condominium is on file at the listing office and will be provided to the prospective purchasers. *(Revised 10/06)*

1.4.3.2 The remarks must contain the following language:

“The Declaration of Condominium which will create the condominium has not yet been recorded in the Register of Deeds. There are various statutory obligations regarding what must be in a Public Offering Statement and its delivery to a purchaser, including the right of the purchaser to cancel the contract within seven (7) calendar days following the signing of the contract or upon receiving a notice of any material change in the Public Offering Statement including any of its attachments, which include the Declaration of Condominium.” *(Revised 10/06)*

1.5 LISTINGS SUBJECT TO THE RULES AND REGULATIONS OF THE SERVICE:

1.5.1 Any listing entered into the MLS is done so within the scope of the Participant’s licensure as a real estate broker.

1.5.2 Any listing taken on a contract to be filed with the MLS is subject to the Rules and Regulations of the Service upon signature of the Seller(s).

1.6 LISTING REQUIREMENTS: There will be no listing fee charged. Only one entry may be entered per listing agreement.

1 1.6.1 Written Documentation. Listing brokers filing listings with the service shall have a written listing agreement with all necessary signatures in their possession. Only listings that create an agency relationship between the seller and the broker participant are eligible for submission to the service. By inputting a listing to the service, broker participants and real estate subscribers represent that they have in their possession such written agreements establishing agency and the represented type of listing agreement. The service shall have the right to demand a copy of such written listing agreements and verify the listing’s existence and adequacy at any time. The service shall also have the right to demand a copy of seller’s written authorization required under these rules. If the broker participant or real estate subscriber fails to provide documentation requested by the service within 24 hours, the service shall have the right to immediately withdraw any listings from the database in addition to disciplining the broker participant and real estate subscriber for a violation of MLS rules.

1.6.2 Initial listing agreements must be entered into the MLS within 72 hours as described in paragraph 1.1 above.

1.6.3 Pictures or sketches of improved property must be entered into MLS or submitted to the Association office within 72 hours. Acceptable photos are photos of listed property and surrounding area that do not include any advertising or identifying contact information.

- 1.6.4 Properties under contract must be entered in to the MLS within 72 hours.
- 1.6.5 Properties sold must be entered in to the MLS within one (1) week.
- 1.7 FINES: Fines will be imposed by the MLS for failure to comply with the listing requirements outlined above or as specified in the following section.
  - 1.7.1 A fine as specified in Appendix 1 will also be imposed for failure to enter a photo within the required time limit, to be assessed every 72 hours thereafter until such photo is entered.
  - 1.7.2 A fine as specified in Appendix 1 and deletion of photo will be imposed for entering an unacceptable photo.
  - 1.7.3 A fine as specified in Appendix 1 will be imposed for failure to enter a listing into the MLS within 72 hours of the effective date of the listing or after all necessary signatures of Seller(s) and listing firm have been obtained, whichever is later.
  - 1.7.4 A fine as specified in Appendix 1 will be imposed for failure to provide the listing agreement and all supporting documentation to the service within 24 hours when requested by the service per paragraph 1.6.1 above. In addition, if the listing and all supporting documentation is not delivered to the service within 24 hours the service will remove the listing from the MLS. The fine will not be due and payable until the MLS Committee has reviewed and approved the fine.
  - 1.7.5 A fine as specified in Appendix 1 will be imposed for each required field in the MLS Listing that is left blank or contains a place holder (example N/A or 9999).
  - 1.7.6 A fine as specified in Appendix 1 will be imposed for each MLS listing that does not contain a numerical street address and name, with the exception of property that has not yet been assigned addresses by the appropriate municipality.
  - 1.7.7 A fine as specified in Appendix 1 will be imposed for failure to identify subdivision, lot # and section, block, phase or tract on properties located within a recorded subdivision as available on county tax records.
  - 1.7.8 A fine as specified in Appendix 1 will be imposed for failure to identify the county as Dare, Currituck, Hyde, Tyrrell, Camden, Perquimans, Pasquotank, Chowan, Gates, Hertford, Washington, Bertie, Martin. Properties in all other counties will result in a fine as specified in Appendix 1 and deletion of the listing from MLS system. (7/25/07)
  - 1.7.9 A fine as specified in Appendix 1 will be imposed for personal promotion in any of the data fields. Personal promotion includes but is not limited to telephone numbers, email and webpage addresses, signs and virtual tours that link to personal promotion/contact information.
  - 1.7.10 A fine as specified in Appendix 1 will be imposed for failure to remove personal promotion/ contact information in a listing. A fine as specified in Appendix 1 will be assessed every 72 hours thereafter until information is removed.

- 1.7.11 A fine as specified in Appendix 1 will be imposed for failing to identify the listing as either an Exclusive Right to Sell or an Exclusive Agency Listing. Exclusive Agency Listings and Exclusive Right to Sell Listings with named prospects exempted should be clearly distinguished.
- 1.7.12 A fine as specified in Appendix 1 will be imposed for failure to input "Under Contract" within 72 hours of the contract date.
- 1.7.13 A fine as specified in Appendix 1 will be imposed for failure to input "Sold" within one (1) week of the HUD Settlement date. A fine as specified in Appendix 1 will be assessed every 72 hours thereafter until information is removed.
- 1.7.14 A fine as specified in Appendix 1 will be imposed for failure to enter the area description as specified in Appendix 2 of these rules and regulations.
- 1.8 **DETAIL ON LISTINGS FILED WITH THE SERVICE:** A Listing Agreement filed with the MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the Property Data Form.
- 1.9 **LIMITED SERVICE LISTINGS:** Limited Service Listings are listing agreements under which the listing broker will not provide one, or more, of the following services:
  - 1.9.1 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);
  - 1.9.2 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);
  - 1.9.3 advise the seller(s) as to the merits of offers to purchase;
  - 1.9.4 assist the seller(s) in developing, communicating, or presenting counter-offers; or
  - 1.9.5 participate on the seller(s) behalf in negotiations leading to the sale of the listed property.

Limited Service Listings will be identified with the code 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. (Adopted 05/01)
- 1.10 **EXEMPTED LISTINGS:** If the Seller refuses to permit the listing to be disseminated by the Service, the REALTOR® may then take the listing ("office exclusive") and a copy of the listing shall be filed with the Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the Seller stating that he does not desire the listing to be disseminated by the Service.
- 1.11 **CHANGE OF STATUS OF LISTING:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the Seller and shall be filed with the Service within twenty four (24) hours (excepting weekends,

Federal holidays, and postal holidays) after the authorized change is received by the listing broker.

- 1.12 ACCEPTABLE LISTING STATUS DESIGNATIONS; Acceptable listing status designations are:
- 1.12.1 Active - A valid listing agreement exists between the Seller of the property and a Participant of the Service.
  - 1.12.2 Extended - A valid listing agreement scheduled to expire has been extended for an additional listing period.
  - 1.12.3 U/C - Continue to Show - An Offer to Purchase and Contract, with contingencies other than financing and Alternative 1, has been signed and accepted by the Seller. Contingencies other than financing and Alternative 1 have not been satisfied. (9/4/08)
  - 1.12.4 Under Contract - An Offer to Purchase and Contract has been signed by Seller and Buyer and all contingencies, excluding financing, have been met.
  - 1.12.5 Back On Market - A ratified Offer to Purchase and Contract fails to close and all involved parties agree to terminate the contract. The subject property is placed back on the market under the existing valid listing agreement.
  - 1.12.6 Sold - The property has been sold and the title transferred.
  - 1.12.7 Withdrawn - The property has been withdrawn from the market by mutual agreement of the Seller and the Participant.
  - 1.12.8 Expired - The listing has expired and notification has not been received by the Service that the listing agreement has been renewed or extended.
- 1.13 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION: Listings of property may be withdrawn from the MLS 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.
- 1.13.1 Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a Seller can document that his exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the Seller.
- 1.14 CONTINGENCIES APPLICABLE TO LISTINGS: Any material contingency or conditions of any term in a listing shall be specified and noticed to the Participants.
- 1.15 LISTING PRICE SPECIFIED: The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings.

- 1.16 LISTING MULTIPLE UNIT PROPERTIES: All properties which are to be sold or which may be sold separately must be indicated individually in the listing and in the computer property data. When part of a listed property has been sold, proper notification should be given to the MLS by a change in the computer data bank.
- 1.17 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS: The MLS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the MLS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or cooperating Participants and non-participants.
- 1.18 EXPIRATION, EXTENSION, AND RENEWAL OF LISTINGS: Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the MLS. *(Revised 11/06)*
- 1.19 TERMINATION DATE OF LISTINGS: Listings filed with the Service shall bear a definite and final termination date as negotiated between the listing broker and the Seller.
- 1.20 JURISDICTION: Only listings of recorded properties located within the jurisdiction of the Outer Banks Association of REALTORS® are required to be entered into the Service. Listings of property located outside the Association's jurisdiction in the counties of Tyrrell, Hyde, Camden, Currituck, Perquimans, Pasquotank, Chowan, Gates, Hertford, Washington, Bertie, Martin will be accepted if entered voluntarily by a Participant, but cannot be required by the Service. *(7/25/07)*
- 1.21 LISTINGS OF SUSPENDED PARTICIPANTS: When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board bylaws, MLS bylaws, MLS rules and regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

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

## SECTION 2--SELLING PROCEDURES

### 2.1 SHOWINGS AND NEGOTIATIONS:

- 2.1.1 Appointments for showings and negotiations with the Seller for the purchase of listed property filed with the MLS shall be conducted through the listing broker except under the following circumstances:
- 2.1.2 The listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- 2.1.3 After reasonable effort, the cooperating broker cannot contact the listing broker or his agent. However, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers.

### 2.2 LOCK BOX REGULATIONS:

- 2.2.1 Participation in the electronic lock box system shall be on a voluntary basis. The lock box system is an activity of a Board-owned and operated Multiple Listing Service. Every MLS Participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS Participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS, the cost of which is included in the monthly MLS fee. *(Revised 11/06)*
  - 2.2.1.1 Members who have excess lock boxes must return same to the Association when instructed to do so by the MLS Office. If lock boxes are not returned within 14 days of notification, the lock box holder is subject to a fine as specified in Appendix 1.
  - 2.2.1.2 Members who have lock boxes assigned to their name shall take reasonable measures, care and precautions to protect assigned lock boxes from damage and / or abuse. If the lock boxes assigned to a member are excessively damaged or abused, then the lock box holder is subject to a fine as specified in Appendix 1. *(Revised 2/07)*
- 2.2.2 SmartCards may be leased to Affiliate Members of the Association who require access to a property to facilitate settlement. In such instances, the lease agreement shall be signed by the cardholder and by a principal, partner or corporate officer of the cardholder's firm. Affiliate Members will be required to be bound by the MLS Rules and Regulations governing the operation of the lock box system. Affiliate members will be charged an annual SmartCard lease fee as specified in Appendix 1.

2.2.2.1 SmartCard Readers are issued one per MLS Participant. Additional card readers may be purchased for a fee as specified in Appendix 1. Card readers must be returned upon closing a main or branch office.

- 2.2.3 Participants in the electronic lock box system are authorized to open lock boxes under the terms specified by the listing broker. Cooperating brokers and sales licensees, whether functioning as subagents of the listing broker or as agents of potential purchasers, must contact the listing broker to disclose their agency status and to arrange appointments to show listed property even if the property has a lock box affixed to it unless the listing broker has given specific permission (through information published in the MLS or otherwise) to show the property without first contacting the listing broker.
- 2.2.4 Should the lock box participant not first contact the listing broker prior to gaining access to a property when required by the listing broker, this action will result in a violation of the MLS Rules and Regulations and be subject to a fine as specified in Appendix 1.
- 2.2.5 SmartCards may not be used by anyone other than the authorized cardholder. If it is determined that a SmartCard has been used by an individual who is not the authorized cardholder, this shall be considered a violation of the MLS Rules and Regulations and subject to a fine as specified in Appendix 1 against both the authorized cardholder and the unauthorized cardholder, provided that the “unauthorized cardholder” is a cardholder (i.e., an MLS Participant, MLS Subscriber, or personal assistant) who is bound to the duties of the lock box regulations, or a REALTOR® Member of the association.

Assistants and staff employed by the authorized card user shall have limited use of the card holder’s card only for acquiring a lock box at the Association office or removal of lockboxes from the authorized card user’s listings. Determination of any other use of the SmartCard by an assistant or staff person will result in a fine as listed in Appendix 1. (6/20/07)

- 2.2.6 All cardholders will sign the lockbox lease.
- 2.2.7 Lock boxes may not be placed on a property without written authority from the Seller. This authority may be established in the listing contract or in a separate document created specifically for the purpose.
- 2.2.8 Participants will be obligated to contact the Association immediately to report lost, stolen or otherwise unaccountable SmartCards. Upon receipt of notice, the Association shall take any steps deemed necessary to re-secure the system. Card holders will be required to pay a reissue fee as specified in Appendix 1.
- 2.2.9 Damaged cards will be replaced upon payment of a replacement fee as specified in Appendix 1.

2.2.10 Cardholder will not write their Sentrilock Personal Identification Number (PIN) number on the Sentrilock Card. To do so compromises the security of the entire lockbox system. Writing the PIN number on the card will result in a fine for the first and second offense as specified in Appendix 1. A third offense will result in the loss of SmartCard privileges for a period of sixty (60) days.

**2.3 PRESENTATION OF OFFERS:**

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

**2.4 SUBMISSION OF WRITTEN OFFERS:**

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

**2.5 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER:**

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

**2.6 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER-OFFER:**

2.6.1 The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the Seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions.

2.7 REPORTING SALES TO THE SERVICE:

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

Note: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants. (Amended 11/01)

2.8 REPORTING RESOLUTIONS OF CONTINGENCIES:

2.8.1 The listing broker shall report to the MLS within 24 hours that a contingency on file with the MLS has been fulfilled or renewed, or the agreement cancelled.

2.9 ADVERTISING OF LISTING FILED WITH THE SERVICE:

2.9.1 A listing shall not be advertised by any Participant, other than the listing broker, without the prior consent of the listing broker.

2.10 REPORTING CANCELLATION OF PENDING SALE:

2.10.1 The listing broker shall report immediately to the MLS the cancellation of any pending sale and the listing shall be reinstated immediately.

**SECTION 3--REFUSAL TO SELL**

3.1 REFUSAL TO SELL: If the Seller of any listed property filed with the MLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

**SECTION 4--PROHIBITIONS**

4.1 INFORMATION FOR PARTICIPANTS ONLY: Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

- 4.2 "FOR SALE" SIGNS: Only the "For Sale" signs of the listing broker may be placed on the property.
- 4.3 "SOLD" SIGNS: Prior to closing, only the "sold" signs of the listing broker may be placed on a property unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

(NOTE: The North Carolina Real Estate Commission recommends that licensees use under contract, sale pending or contract pending riders instead of sold riders to avoid any accusation of misleading or deception of the public. As with the sold riders, these riders may not be placed on a property without the authorization of the listing broker.)

- 4.4 SOLICITATION OF LISTING FILED WITH THE SERVICE: Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTOR® Code of Ethics, its Standards of Practice, and its Case Interpretations.

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

- 4.4.1 Without such protection, a Seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.
- 4.4.2 This Section is also intended to encourage brokers to participate in the Service by assuring them that other Participants will not attempt to persuade the Seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this Section, listing brokers would be most reluctant to generally disclose the identity of the Seller or the availability of the property to other brokers.
- 4.4.3 This Section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.)

## **SECTION 5--DIVISION OF COMMISSIONS**

- 5.1 COOPERATIVE COMPENSATION SPECIFIED ON EACH LISTING: The listing broker shall specify, on each listing filed with the MLS, the compensation offered to other MLS Participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise

provided for in these rules. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

(NOTE 1: In filing a property with the MLS of the Association of REALTORS®, the Participant of the Service is making blanket unilateral offers of compensation to the other MLS Participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other MLS Participants. Specifying the compensation on each listing is necessary because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.\*) This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance of his producing an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the Service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. *(Revised 11/06)*

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

5.1.1.1 By showing a percentage of the gross selling price.

5.1.1.2 By showing a definite dollar amount.

The Association MLS shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in this listing contract and the Association MLS shall not publish the total negotiated commission on a listing which has been entered into the MLS by a Participant. The Association MLS shall not disclose in any way the total commission negotiated between the seller and the listing broker. *(Revised 11/06)*

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

(NOTE 2: The listing broker may from time to time, adjust the compensation offered to other MLS Participants for their services with respect to any listing by advance published notice to the Service so that all Participants will be advised.)

(NOTE 3: The MLS shall make no rule on the division of commissions between Participants and non-participants. This shall remain solely the responsibility of the listing broker.)

(NOTE 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval; and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they produce an offer that ultimately results in a successful transaction. (7/3/08)

- 5.1.3 Participants must disclose potential short sales when reasonably known to the listing participants. When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.
- 5.2 PARTICIPANT AS PRINCIPAL: If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any Ownership interest in property, the listing of which is to be disseminated through the MLS, that person shall disclose that interest when the listing is filed with the MLS and such information shall be disseminated to all MLS Participants.
- 5.3 PARTICIPANT AS A PURCHASER: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker.
- 5.4 DUAL OR VARIABLE RATE COMMISSION Arrangements : The existence of a dual-or-variable rate commission arrangement (i.e. one in which the Seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a

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

## **SECTION 6--SERVICE CHARGES**

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

6.1.1 **Initial Participation Fee:** An applicant for participation in the Service shall pay an application fee of \$750.00 with such fee to accompany the application.

*(NOTE: The Initial Participation Fee shall approximate the cost of bringing the Service to the Participants.)*

6.1.2 In addition to the participation fee, an applicant for participation in the Service shall pay a \$395 software license fee for each branch location.

6.1.3 All paid up MLS participants as of December 6, 1984, will be called Charter Members and thusly recognized.

6.1.4 **Subscription Fees:** The Participant shall be responsible for a Subscription fee for each licensed individual employed by or affiliated as an independent contractor with the Participant who has access to and who utilizes the Service. Subscription fees will be determined by the Board of Directors on an annual basis as specified in Appendix 1. Personal assistants or staff, affiliated with the Participant shall not be required to pay subscription fees provided that they do not list or sell property and provided that the necessary waiver form is signed by all appropriate parties. If it is determined at any time that either a personal assistant or staff breaches the terms of the signed waiver, a fine as specified in Appendix 1 will be levied against each signatory to the waiver.

If a licensed individual employed by or affiliated with the Participant does not utilize or have access to the system (i.e. referral agents, property managers, etc) then the Participant will not be responsible for subscription fees for these individuals. *(Revised 5/14/07)*

- 6.1.5 Book Fees: Bi-monthly MLS books and quarterly comp books can be ordered by Participants and their independent contractors at their option. Book fees will be charged in addition to the monthly subscription fees at a rate to be determined by the Board of Directors on an annual basis as specified in Appendix 1.
- 6.1.6 Late Payment Penalty: A late payment Penalty of 10% or \$25, whichever is the greater of the outstanding balance, will be added to any invoice not paid within thirty (30) days of the date of that invoice. *(Revised 4/06)*
- 6.1.7 Price Change Fee: If the Asking Price of a listing changes (increase or decrease) more than once during a 30 day period by less than or equal to 1%, a fee of \$100 will be assessed for the second and each subsequent change within the 30 day period.

## **SECTION 7--COMPLIANCE WITH RULES**

- 7.1 COMPLIANCE WITH RULES: The following action may be taken for non-compliance with the rules:
  - 7.1.1 If fees, fines, or other assessments including amounts owed to the Association's MLS are not paid within one (1) month after the due date, the nonpaying MLS participant is subject to suspension of MLS access at the discretion of the Board of Directors. The MLS Participant shall be notified of the pending suspension. Two (2) months after the due date, MLS access of the nonpaying MLS participant shall be automatically suspended. Two (2) weeks after the suspension date, MLS access of the nonpaying MLS participant shall automatically terminate unless within that time the amount due is paid. *(Revised 10/06)*
  - 7.1.2 For failure to comply with any other rule, the provisions of Section 9 and Section 9.1 shall apply.
- 7.2 Applicability of Rules to Users and/or Subscribers: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

## **SECTION 8--MEETINGS**

- 8.1 **MEETINGS OF MLS COMMITTEE:** The MLS Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.
- 8.2 **MEETINGS OF MLS PARTICIPANTS:** The Committee may call meetings of the Participants in the Service to be known as meetings of the MLS.
- 8.3 **CONDUCT OF THE MEETINGS:** The Chairperson, or Vice Chairperson, shall preside at all meetings or, in their absence a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

## **SECTION 9--ENFORCEMENT OF RULES OR DISPUTES**

- 9.1 **CONSIDERATION OF ALLEGED VIOLATIONS:** The Committee shall give consideration to all written complaints having to do with violations of the Rules and Regulations.
- 9.2 **VIOLATIONS OF RULES AND REGULATIONS:** If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the MLS Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Association in accordance with the Bylaws and the MLS Rules and Regulations of the Association of REALTORS® within twenty (20) days following receipt of the Committee's decision. (*Revised 11/06*)
- 9.3 **COMPLAINTS OF UNETHICAL CONDUCT:** All other complaints of unethical conduct shall be referred by the Committee to the Professional Standards Administrator of the Association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Association's Bylaws.

## **SECTION 10--CONFIDENTIALITY OF MLS INFORMATION**

- 10.1 **CONFIDENTIALITY OF MLS INFORMATION:** Any information provided by the MLS to the Participants or their affiliated licensees shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.
- 10.2 **MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION:** The information published and disseminated by the Service is communicated verbatim, without change by

the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant and their affiliated licensees agree to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant or their affiliated licensees provide.

- 10.3 MLS participants or their affiliated licensees who share their login ID and password used to gain access to the information in the MLS system with unauthorized users shall be assessed a fine as specified in Appendix 1. *(Revised 2/07)*

## **SECTION 11--OWNERSHIP OF MLS COMPILATIONS\* AND COPYRIGHTS**

- 11.1 By the act of submission of any property listing content to the MLS, the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on "Comparables." Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.
- 11.2 All right, title and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Outer Banks Association of REALTORS®, and in the copyrights therein, shall at all times remain vested in the Outer Banks Association of REALTORS®.
- 11.3 Each Participant shall be entitled to lease from the Outer Banks Association of REALTORS® a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee including licensed or certified appraisers affiliated with such Participant with one copy of such Compilation. The Participant shall pay, for each such copy, the rental fee set by the Association. \*\*
- 11.3.1 Participants shall acquire by such lease only the right to use the MLS Compilations in accordance with these rules.

\*The term MLS Compilation, as used in Sections 11, 12 and 13 herein shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer data base, card file, or any other format whatever.

\*\*This section should not be construed to require the Participant to lease a copy of the MLS Compilation for any licensee affiliated with the Participant or licensed and certified appraiser affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling or appraising the types of properties which are required to be filed with the MLS, and who does not, at any time, have access to nor use of the MLS information or MLS facility of the Association. *(Revised 11/06)*

## SECTION 12--USE OF COPYRIGHTED MLS COMPILATIONS

- 12.1 **DISTRIBUTION:** Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Association of REALTORS®, and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as licensees or as licensed and certified appraisers affiliated with the Participant, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by an association MLS is strictly limited to the activities authorized under a participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership any right of access to information developed or published by and association MLS where access to such information is prohibited by law. *(Revised 11/06)*
- 12.2 **DISPLAY:** Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.
- 12.3 **REPRODUCTION:** Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:
- 12.3.1 Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable\* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.
- 12.3.2 Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.
- 12.3.3 Provided, however, that nothing contained herein shall be construed to preclude any Participant or their affiliated licensees from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.
- 12.3.4 Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

12.3.5 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 an Association or Association-owned MLS has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

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

### **SECTION 13--USE OF THE MLS INFORMATION**

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

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

*Based on information from the Outer Banks Association of REALTORS® MLS for the period (date) through (date).*

- 13.2 **STATICTICAL INFORMATION:** The Outer Banks Association of Realtors does not offer statistical information to Affiliate Members.  
(7/25/07)

#### **SECTION 14--CHANGES IN RULES AND REGULATIONS**

- 14.1 **CHANGES IN RULES AND REGULATIONS:** Amendments to the Rules and Regulations of the Service shall be by a majority vote of the Members of the MLS Committee, subject to approval by the Board of Directors of the Association of REALTORS®.

#### **SECTION 15--ORIENTATION**

- 15.1 Any applicant for MLS Participation and any licensee affiliated with an MLS Participant who has access to and use of MLS-generated information is required to complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. Applicants who are employed in property management departments and do not have access to and use of MLS-generated information are not required to attend MLS training.

#### **SECTION 16--INTERNET DATA EXCHANGE**

IDX affords MLS Participants the option of authorizing display of their active listings on other Participants' Internet web sites.

- 16.1 **AUTHORIZATION:** Participants' consent for display of their active listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant and any agents associated with that Participant may not download or frame the aggregated MLS data of other Participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller.
- 16.2 **PARTICIPATION:** Participation in IDX is available to all MLS Participants and their affiliated agents who consent to display of their listings by other Participants.
- 16.2.1 Participants must notify the MLS of their intention to establish an IDX site and make their IDX site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.
- 16.2.2 Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction or use of the MLS database.

16.2.3 Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

16.2.4 Participants may select the listings they choose to display on their IDX sites based only on objective criteria including but not limited to factors such as geography or location (“uptown”, “downtown”, etc.), list price, type of property, or cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant.

16.2.5 Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

16.2.6 Except as provided elsewhere in this policy or elsewhere in an MLS’s rules and regulations, an IDX site or Participant operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

16.2.7 When displaying listing content, a Participant’s or User’s IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. *(Revised 11/06)*

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

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

16.3.2 Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

16.3.3 All listing displayed pursuant to IDX shall identify the listing firm in readily visible color and typeface not smaller than the median used in the display of listing data.

- 16.3.4 All listings displayed pursuant to IDX shall identify the listing agent.
  - 16.3.5 Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant's consent and control and the requirements of state law and/or regulation.
  - 16.3.6 All listings displayed pursuant to IDX shall indicate the MLS as the source of the information and shall display an accuracy disclaimer, copyright notice and MLS logo.
  - 16.3.7 Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability.
  - 16.3.8 The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's offices(s) holding participatory rights in this MLS.
  - 16.3.9 Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.
  - 16.3.10 Participants and their affiliated agents using a third party to develop/design their websites will have a written agreement with that third party in the form prescribed by the MLS.
  - 16.3.11 Participants and their affiliated agents must make changes to their websites necessary to cure a violation of the MLS Rules within five (5) business days of notice from the MLS of a violation. If not corrected within this time period, a fine as specified in Appendix 1 will be levied for each day that the violation is not corrected.
- 16.4 **SERVICE FEES AND CHARGES:** Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **SECTION 17 – THIRD PARTY ACCESS TO THE MLS DATABASE**

The integrity of data is the foundation to the orderly real estate market and the Real Estate Transaction Standards (RETS) provides a vendor neutral and secure approach to exchanging listing information between the broker and the MLS. RETS access to the MLS Data affords the

Outer Banks Association of REALTORS® (OBAR) and MLS Participants the option of providing third party access to MLS information.

17. OBAR may grant access to third party vendors per the following procedure:

17.1 AUTHORIZATION: OBAR may grant third party vendor access to the MLS Database in accordance with the following procedure:

17.1.1 When third party vendor access to the MLS is requested, OBAR staff will provide the vendor with a copy of the RETS Access Agreement, an Office Add / Change Form and a Member Add / Change Form.

17.1.2 The vendor shall complete a RETS Access Agreement and provide a detailed explanation of the vendor services being provided in Addendum 1 of the Third Party Access Agreement.

17.1.3 The RETS Access Agreement will be presented to the MLS Committee for their review and recommendation to the Board of Directors.

17.1.4 If recommended by the MLS Committee, the OBAR Board of Directors shall consider the proposed RETS Access Agreement at their next regularly scheduled Board meeting.

17.2 SUBSCRIPTION: The RETS Access Agreement will expire on December 31 of each year and may be renewed or terminated at the discretion of OBAR.

## **SECTION 18 – VIRTUAL OFFICE WEBSITE (VOW) RULES FOR MLSs**

**The Outer Banks Association of REALTORS® has adopted the NAR policy governing use of MLS data in connection with Internet brokerage services offered by MLS Participants (“Virtual Office Websites”)**

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

18.1(b) As used in Section 18 of these Rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees – except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all VOWs, whether operated by a Participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner (“AVP”) on behalf of a Participant.

- 18.1(c) “Affiliated VOW Partner” (“AVP”) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.
- 18.1(d) As used in Section 18 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.
- 18.2(a) The right of a Participant’s VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- 18.2(b) Subject to the provisions of the VOW Policy and these Rules, a Participant’s VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g. Internet Data Exchange (“IDX”).
- 18.2(c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant’s VOW.
- 18.3(a) Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:
- 18.3.1 The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- 18.3.2 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.
- 18.3.3 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.

18.3(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.

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

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

18.3.1 That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

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

18.3.3 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;

18.3.4 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;

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

18.3(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.

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

- 18.4 A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.
- 18.5 A Participant's VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, "scraping", and other unauthorized use of MLS Listing Information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.
- 18.6(a) A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.
- 18.6(b) A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision:

Seller Opt-Out Form

1. Please check either Option a or Option b

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

OR

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

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

\_\_\_\_\_  
initials of seller

- 18.6(c) The Participant shall retain such forms for at least one year from the date they are signed, or one year from the date the listing goes off the market, whichever is greater.
- 18.7(a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing
- 18.7(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 18.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."
- 18.8 A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.
- 18.9 A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.
- 18.10 Except as provided in these rules, the National Association of Realtors® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.
- 18.11 A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.
- 18.12 A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.
- 18.13 A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

- 18.14 A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant.
- 18.15 A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS Listing Information with additional information not otherwise prohibited by these Rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields
- 18.16 A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS Listing Information displayed on the VOW is deemed reliable but is not guaranteed accurate by the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.
- 18.17 A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.
- 18.18 A Participant shall require that Registrants' passwords be reconfirmed or changed every \_\_\_ days.
- (Note: The number of days passwords remain valid before being changed or reconfirmed must be specified by the MLS in the context of this rule and cannot be shorter than 90 days. Participants may, at their option, require Registrants to reconfirm or change passwords more frequently.)
- 18.19 A Participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.
- 18.20 A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.
- 18.21 Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS. (01.28.09)

**APPENDIX 1**  
**MLS FINES, FEES and OTHER CHARGES**

Section	Fine Description	Amount
1.7.1	Failure to enter Photo w/in 72 hours (Recurring)	\$50.00
1.7.2	Failure to enter Acceptable Photo	\$50.00
1.7.3	Failure to enter Listing w/in 72 hours	\$500.00
1.7.4	Failure to submit Listing Agreement w/in 24 hours	\$500.00
1.7.5	Required Field left blank or use of Place Holder	\$50.00
1.7.6	Failure to enter Numerical Street Address & Name	\$50.00
1.7.7	Failure to enter Subdivision, Tract, Lot#, Section, Block, Phase	\$50.00
1.7.8	Failure to Identify Correct County/Incorrect County*	\$50.00
1.7.9	Use of Personal Promotion/Branding	\$50.00
1.7.10	Failure to Remove Personal Promo w/in 72 hours (recurring)	\$50.00
1.7.11	Failure to Identify Listing as Exclusive Right to Sell	\$50.00
	or Exclusive Agency Listing	\$50.00
1.7.12	Failure to enter under Contract w/in 72 hours	\$50.00
1.7.13	Failure to enter 'Sold' w/in 1 wk of HUD date (recurring)	\$50.00
1.7.14	Failure to identify property area as specified in Appendix 2	\$50.00
	<b>Fees and Other Charges</b>	
	MLS Subscriber Fee – OBAR Member	\$40.00/Mon
	MLS Subscriber Fee – Non OBAR Member	\$60.00/Mon
	Agent Transfer Fee	\$50.00
	Failure to return Paragon Disk w/in 5 calendar days	\$50.00
	Breach Waiver Agreement	\$500.00
2.2.1	Replacement of Lockbox	\$100.00
2.2.1.1	Lockbox not returned w/in 14 calendar days when notified	\$50.00
2.2.1.2	Excessive lockbox damage or abuse	\$100
2.2.2	Affiliate Member SmartCard Lease	\$65.00/Yr
2.2.2.1	New SmartCard Reader	\$98.00
2.2.4	Violation of Call before Showing	\$50.00
2.2.5	Unauthorized use of a smart card by an authorized user (card holder)	\$50.00
2.2.5	Unauthorized use of a smart card by an unauthorized user	\$500.00
2.2.8	Lost, stolen or unaccounted for SmartCard	\$50.00
2.2.9	Replacement of Damaged SmartCard	\$15.00

**APPENDIX 1**  
**(continued)**  
**MLS FINES, FEES and OTHER CHARGES**

2.2.10	Writing Pin # on SmartCard – 1 <sup>st</sup> Offense	\$50.00
2.2.10	Writing Pin # on SmartCard – 2 <sup>nd</sup> Offense	\$250.00
6.1.6	Late Payment Penalty (Whichever is greater of ...)	10% or \$25
10.3	The first offense of Section 10.3 is \$1,000, the second offense is \$3,000 and the 3 <sup>rd</sup> offense is \$5,000.	
18.3.14	Failure to correct IDX Violation w/in 5 calendar days and each day thereafter	\$50.00
	Violation of any section of the rules and regulations not listed above, which does not involve a charge of alleged unethical conduct or request for arbitration	\$500

\* Includes deletion from MLS in addition to fine.

**APPENDIX 2**  
**MLS AREA DESCRIPTIONS**

Area Name	Area Code	Area Description
Knotts Island	01	Currituck County, on Knotts Island
4-Wheel Drive Area	011	Currituck Outer Banks, beyond the paved road north of the Villages of Ocean Hill.
Corolla Oceanside	012	Currituck Outer Banks East of Hwy 12
Corolla Westside	020	Currituck Outer Banks West of Hwy 12
Pt. Harbor to Powells Pt.	031	Currituck County from Pt. Harbor to Powells Pt.
Jarvisburg to Poplar Br.	032	Currituck County from Jarvisburg to Poplar Br.
Aydlett to Barco	033	Currituck County from Aydlett to Barco
Maple to Moyock	034	Currituck County from Maple to Moyock
Duck Oceanside	040	East of Hwy 12 inside the Town of Duck
Duck Westside	050	West of Hwy 12 inside the Town of Duck
Southern Shores Oceanside	061	Inside the Town of SS, East of Hwy 12
Southern Shores Westside	070	Inside the Town of SS, West of Hwy 12
Martins Point	072	Unincorporated Dare County north of Hwy 158 adjacent to the Town of Southern Shores
Kitty Hawk Oceanside	080	Inside the Town of Kitty Hawk, east of Hwy 12
Kitty Hawk between Hwys	090	Inside the Town of Kitty Hawk, west of Hwy 12 and east of Hwy 158
Kitty Hawk Westside	100	Inside the Town of Kitty Hawk, west of Hwy 158
Kill Devil Hills Oceanside	110	Inside the Town of KDH, east of Hwy 12
Kill Devil Hills b/w Hwys	120	Inside the Town of KDH, west of Hwy 12 and east of Hwy 158
Kill Devil Hills Westside	130	Inside the Town of KDH, west of Hwy 158
Colington Harbour	141	On Colington Island inside the Colington Harbor Subdivision
Colington	143	Colington Island (excluding Colington Harbor Subdivision) and unincorporated Dare County west of the Town of KDH. (example Baum Bay Harbor)
Nags Head Oceanside	150	Inside the Town of Nags Head, east of Hwy 12 and North of Jennette's Pier
S. N.H. East/Old Oregon R	151	Inside the Town of NH east of Old Oregon Inlet Road
Nags Head between hwys	160	Inside the Town of Nags Head, west of Hwy 12 and east of Hwy 158
S. N.H. West/Old Oregon R	161	Inside the Town of NH west of Old Oregon Inlet Road
Nags Head Westside	170	Inside the Town of Nags Head, west of Hwy 158 and north of Hwy 64 (including Pond Island)
Rodanthe Oceanside	180	Hatteras Island, East of Hwy 12 inside the village of Rodanthe

<b>Area Name</b>	<b>Area Code</b>	<b>Area Description</b>
Rodanthe Soundside	190	Hatteras Island, West of Hwy 12 inside the village of Rodanthe
Waves Oceanside	200	Hatteras Island, East of Hwy 12 inside the village of Waves
Waves Soundside	210	Hatteras Island, West of Hwy 12 inside the village of Waves
Salvo Oceanside	220	Hatteras Island, East of Hwy 12 inside the village of Salvo
Salvo Soundside	230	Hatteras Island, West of Hwy 12 inside the village of Salvo
Avon Oceanside	240	Hatteras Island, East of Hwy 12 inside the village of Avon
Avon Soundside	250	Hatteras Island, West of Hwy 12 inside the village of Avon
Columbia	252	Inside the Town of Columbia
Ocracoke	253	Ocracoke Island
Buxton Oceanside	260	Hatteras Island, East/South of Hwy 12 inside the village of Buxton
Buxton Soundside	270	Hatteras Island, West/North of Hwy 12 inside the village of Buxton
Frisco Oceanside	280	Hatteras Island, South of Hwy 12 inside the village of Frisco
Frisco Soundside	290	Hatteras Island, North of Hwy 12 inside the village of Frisco
Hatteras Oceanside	300	Hatteras Island, South of Hwy 12 inside the village of Hatteras
Hatteras Soundside	310	Hatteras Island, North of Hwy 12 inside the village of Hatteras
Manteo-S. of Airport Road	320	Roanoke Island, South of Airport Road to the Midway intersection, including the Town of Manteo but excluding Pirates Cove
Pirates Cove	325	Roanoke Island, Inside the Pirates Cove Subdivision
Manteo-N. of Airport Road	330	Roanoke Island, North of and including all property on Airport Road
Wanchese	340	Roanoke Island, South of and including Baumtown Road
Skyco	350	Roanoke Island, South of Midway Intersection to and excluding Baumtown Road
Dare Co. Mainland	360	Unincorporated Dare County west of Roanoke Island, including Manns Harbor, Machos, East Lake, & Stumpy Point
Other	370	
Camden County	380	Inside Camden County

<b>Area Name</b>	<b>Area Code</b>	<b>Area Description</b>
Hyde County	390	Inside Hyde County, excluding Ocracoke Island
Tyrrell County	400	Inside Tyrrell County, excluding the Town of Columbia
Elizabeth City	500	Inside Elizabeth City
Pasquotank County	501	Inside Pasquotank County, excluding the Town of Elizabeth City
Edenton	600	Chowan County, Inside the Town of Edenton
Creswell	700	Washington County, Inside the Town of Creswell
Plymouth	701	Washington County, Inside the Town of Plymouth
Washington County	702	Inside Washington County, excluding the Town of Creswell & Plymouth
Williamston	705	Martin County, Inside the Town of Williamston
Hertford	706	Perquimans County, Inside the Town of Hertford
Perquimans County	800	Inside Perquimans County, excluding the Town of Hertford
Bertie County	810	Inside Bertie County
Martin County	820	Inside Martin County, excluding the Town of Williamston
Chowan County	830	Inside Chowan County, excluding the town of Edenton
Gates County	840	Inside Gates County
Hertford County	850	Inside Hertford County