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MONTEBELLO DISTRICT BOARD OF REALTORS® MODEL MULTIPLE LISTING SERVICE RULES

1. **AUTHORITY.** The Montebello District Board of Realtors®, Inc. may maintain for the use of licensed real estate brokers and salespersons, and licensed or certified appraisers, a Multiple Listing Service (hereinafter referred to as "MLS" or "service"), which shall be subject to the bylaws of the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. and such rules and regulations as may be hereinafter adopted by the Board of Directors of the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. (hereinafter "Board of Directors").

2. **PURPOSE.** A Multiple Listing Service is a means by which authorized MLS broker participants establish legal relationships with other participants by making a blanket unilateral contractual offer of compensation and cooperation

to other broker participants; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals and other valuations of real property; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information among the participants so that they may better serve their clients, customers and the public.

3. MULTIPLE LISTING SERVICE COMMITTEE. The MLS shall be governed by the Multiple Listing Service Committee (hereinafter "MLS Committee") in accordance with the bylaws of the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. and such rules and regulations as adopted by the Board of Directors. All actions of the MLS Committee shall be subject to the approval of the Board of Directors.

4. PARTICIPATION AND AUTHORIZED ACCESS

4.1 Participant. A participant is any individual who applies and is accepted by the MLS, meets and continues to meet all of the following requirements of either a broker participant or an appraiser participant as defined below in sections 4.1.1 and 4.1.2.

4.1.1 Broker Participant. A broker participant is a participant who meets all of the following requirements:

- a. The individual or corporation, for which the individual acts as a broker/officer, holds a valid California real estate broker's license;
- b. The individual is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal;
- c. The individual or corporation for which the individual acts as a broker/officer is capable of offering and accepting compensation in the capacity of a real estate broker;
- d. 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;
- e. The individual pays all applicable MLS fees; and
- f. The individual has completed any required orientation program of no more than eight (8) classroom hours within thirty (30) days after access has been provided.

4.1.2 Appraiser Participant. An appraiser participant is a participant who meets all of the following requirements:

- a. The individual holds a valid California appraisers certification or license;
- b. The individual is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal;
- c. 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;
- d. The individual pays all applicable MLS fees; and
- e. The individual has completed any required orientation program of no more than eight (8) classroom hours within thirty (30) days after access has been provided.

4.2 Subscriber. A subscriber is an individual who applies and is accepted by the MLS, meets and continues to meet all of the following requirements of either a r.e. subscriber or appraiser subscriber as defined below in sections 4.2.1 and 4.2.2:

4.2.1 R.E. Subscriber. A r.e. subscriber is a subscriber who meets all of the following requirements:

- a. The individual holds a valid California real estate salesperson's or broker's license;
- b. The individual is employed by or affiliated as an independent contractor with a broker participant;
- c. 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;
- d. The individual pays all applicable MLS fees; and
- e. The individual has completed any required orientation program of no more than eight (8) classroom hours within thirty (30) days after access has been provided.

4.2.2 Appraiser Subscriber. An appraiser subscriber is a subscriber who meets all of the following requirements:

- a. The individual holds a valid California real estate appraisers certification or license;
- b. The individual is employed by or affiliated as an independent contractor with an Appraiser Participant;
- c. 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;
- d. The individual pays all applicable MLS fees; and
- e. The individual has completed any required orientation program of no more than eight (8) classroom hours within thirty (30) days after access has been provided.

4.3 Clerical Users. Clerical users are individuals (whether licensed or unlicensed) under the direct supervision of an MLS participant or subscriber that 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 shall provide the MLS with a list of all clerical users employed by or affiliated as independent contractors with the participant or subscriber and shall immediately notify the MLS of any changes, additions or deletions from the list.

4.4 Notification of Licensees. Each participant shall provide the MLS with a list of all real estate licensees or certified or licensed appraisers employed by or affiliated as independent contractors with such participant or with such participant's firm and shall immediately notify the MLS of any changes, additions or deletions from the list. This list shall include any licensees under any broker associate affiliated with the participant.

4.5 Participation Not Transferable. Participation in the MLS is on an individual basis and may not be transferred or sold to any corporation, firm or other individual. Any reimbursement of MLS fees is a matter of negotiation between those transferring the business or determined by internal contract arrangement within the firm. However, providing the first participant consents, the AO.R. shall allow a firm to designate a different person as a participant within the firm without additional initial participation fees. The MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. may charge an administrative fee for this service of reassigning participants within a firm.

4.6 Listing Broker Defined. For purposes of these MLS rules, a listing broker is a broker participant who is also a listing agent as defined in Civil Code § 1086 who has obtained a written listing agreement by which the broker has been authorized to act as an agent to sell or lease the property or to find or obtain a buyer or lessee. Whenever these

rules refer to the listing broker, the term shall include the r.e. subscriber or a licensee acting for the listing broker but shall not relieve the listing broker of responsibility for the act or rule specified.

4.7 Cooperating Broker or Selling Broker Defined. For purposes of these MLS rules, a cooperating broker or selling broker is a broker participant who is also a selling agent as defined in Civil Code Section 1086 who acts in cooperation with a listing broker to accept the offer of compensation and/or subagency to find or obtain a buyer or lessee. The cooperating broker or selling broker may be the agent of the buyer or, if subagency is offered and accepted, may be the agent of the seller. Whenever these rules refer to the cooperating broker or selling broker, the term shall include the r.e. subscriber or licensee acting for the cooperating or selling broker but shall not relieve that broker participant of responsibility for the act or rule specified.

4.8 Appraiser Defined. For purposes of these MLS rules, an appraiser is an appraiser participant, appraiser subscriber, or a licensed or certified appraiser acting for the appraiser participant or appraiser subscriber. Whenever these rules refer to the appraiser, the term shall also include the appraiser subscriber or a licensed or certified appraiser employed by or affiliated as an independent contractor with the firm that employs the appraiser but shall not relieve that appraiser participant of responsibility for the act or rule specified.

5. MLS FEES AND CHARGES

5.1 Service Fees and Charges. The MLS Committee, subject to approval of the Board of Directors, shall establish a schedule of MLS fees applicable to the MLS, which may include the following service fees and charges:

5.1.1 Initial Participation and/or Application Fee: Applicants for MLS services may be assessed initial participation and/or application fee.

5.1.2 Recurring Participation Fee: The recurring participation fee of each broker participant shall be an amount times the total number of (1) the broker participant plus (2) the number of salespersons who have access to and use of the MLS, whether licensed as brokers or salespersons, who are employed by or affiliated as independent contractors with such participant or the participant's firm. If more than one principal broker in the same firm elects to be a participant, the number of salespersons in the firm will only be used once in calculating the recurring participation fees. A broker participant is not obligated to pay recurring participation fees or other MLS fees and charges for real estate licensees affiliated with the participant or the participant's firm if such licensees work out of a branch office of the participant or the participant's firm that does not participate in or otherwise use the MLS.

The recurring participation fee of each appraiser participant shall be an amount times the total number of (1) the appraiser participant plus (2) the number of appraisers who have access to and use of the MLS, who are employed by or affiliated as independent contractors with such participant or the participant's firm. If more than one principal appraiser in the same firm elects to be a participant, the number of appraisers in the firm will only be used once in calculating the recurring participation fees. An appraiser participant is not obligated to pay recurring participation fees or other MLS fees and charges for licensed or certified appraisers affiliated with the participant or the participant's firm if such appraisers work out of a branch office of the participant or the participant's firm that does not participate in or otherwise use the MLS.

5.1.3 Listing Fee: A broker participant shall pay a listing fee for each listing submitted to the MLS staff for input .

5.1.4 Book Fees: The participant shall be responsible for book fees for each MLS book the participant wishes to lease. The participant may not obtain more MLS books than the total number of subscribers affiliated with the participant.

5.1.5 Computer Access Fees: The recurring computer access fee for each participant shall be an amount times the total number of subscribers and salespersons licensed or certified as appraisers, brokers or salespersons, who are employed by or affiliated as independent contractors with such participant.

5.1.6 Certification of Nonuse. Participants may be relieved from payment under section 5.1.2 and 5.1.5 hereunder by certifying in writing to the MLS that a licensed or certified person in the office is engaged solely in activities that do not require a real estate license or certification (clerical, etc.), or that the real estate licensee or licensed or certified appraiser will not use the MLS or MLS compilation in any way. In the event a real estate licensee or appraiser is found in violation of the nonuse certification, the participant shall be subject to all MLS fees dating back to the date of the certification. The participant and subscriber may also be subject to any other sanction imposed for violation of MLS rules including, but not limited to, a citation and suspension or termination of participation rights and access to the service.

5.1.7 Clerical Users. Clerical users may be assessed application fees, computer access fees and other fees. The participant for the clerical user shall be responsible for all such fees.

5.1.8 Other Fees. Other fees that are reasonably related to the operation of the MLS may be adopted.

5.2 Responsibility for Fees. In the event the MLS allows for direct billing or payment by a subscriber for MLS fees, such fees shall be the exclusive obligation of that subscriber regardless of whether such subscriber becomes affiliated with a different participant. If the MLS does not allow for direct billing or payment by a subscriber for MLS fees, such fees shall be the responsibility of the participant with whom the subscriber was affiliated with at the time the MLS fees were incurred. This section does not preclude in any way the ability of participants to pursue reimbursement of MLS fees from current or past subscribers or to establish agreements with subscribers regarding payment or reimbursement of MLS fees.

6. REGIONAL AND RECIPROCAL AGREEMENTS

The MLS Committee may recommend, subject to the Board of Directors' approval, that the MLS enter into reciprocal or regional agreements with other Associations of REALTORS® or MLS Corporations owned solely by Associations of REALTORS® to allow the other MLS participants and subscribers access to the service in exchange for comparable benefits to the participants and subscribers of this service. In the event of such agreements, the participants and subscribers agree to abide by the respective rules of the other MLSs receiving and publishing a listing pursuant to such agreements and to abide by such rules when accessing the other MLSs' databases.

7. LISTING PROCEDURES

7.1 Listings Subject to Rules and Regulations of the Service. Any listing filed with the service is subject to the rules and regulations of the service.

7.2 Types of Listings; Responsibility for Classification. The service shall accept exclusive right to sell, exclusive agency, open, and probate listings as defined in California Civil Code Section 1086 et. seq. that satisfy the requirements of these MLS rules. Exclusive right to sell listings that contain any exceptions whereby the owner need not pay a commission if the property is sold to particular individuals shall be classified for purposes of these rules as an exclusive right to sell listing but the listing broker shall notify all participants of the exceptions. It shall be the responsibility of the broker participant and r.e. subscriber to properly classify the type of listing, and if necessary, obtain a legal opinion to determine the correct classification. By classifying the type of the listing, the listing broker certifies that the listing falls under the legal classification designated. The MLS shall have no affirmative responsibility to verify the listing type of any listing filed with the service. However, the MLS shall have the right to have legal counsel make a determination as to the classification of the listing type and if the listing broker does not reclassify it accordingly, the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. shall have the right to reject or remove any such listing that it determines falsely represents the classification of listing type.

7.2.1 Scope of Service; Limited Services Listings. Limited Service listings are listings whereby the listing broker, pursuant to the listing agreement, will not provide one, or more, of the following services:

- (a) provide cooperating brokers with any additional information regarding the property not already displayed in the MLS but instead gives cooperating brokers authority to contact the seller(s) directly for further information;
- (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.

Said Limited Service listings will be identified with an appropriate code or symbol (e.g. "LS") 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 broker's clients, prior to initiating efforts to show or sell the property.

7.2.2 Scope of Service; MLS Entry-Only Listings. MLS Entry-Only listings are listings whereby the listing broker, pursuant to the listing agreement, will not provide any of the following services:

- (a) provide cooperating brokers with any additional information regarding the property not already displayed in the MLS but instead gives cooperating brokers authority to contact the seller(s) directly for further information;
- (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.

Said MLS Entry-Only listings will be identified with an appropriate code or symbol (e.g. "EO") 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 broker's clients, prior to initiating efforts to show or sell the property.

7.2.3 Scope of Service; Legal Obligations. The scope of service classifications set forth in these rules do not alter any obligations otherwise imposed on real estate licensees under California law, including Department of Real Estate regulations, statutory law and common law. The MLS's acceptance or publication of listings eligible for MLS submission in no way constitutes a validation that said obligations have been met.

7.3 Types of Properties; Responsibility for Classification. The MLS shall accept listings that satisfy the requirements of these rules on the following types of property:

- 7.3.1 Residential
- 7.3.2 Residential Income
- 7.3.3 Subdivided Vacant Lot
- 7.3.4 Land and Ranch
- 7.3.5 Business Opportunity
- 7.3.6 Motel-Hotel
- 7.3.7 Mobilehomes (only those that may be sold by real estate licensees)
- 7.3.8 Mobilehome Parks
- 7.3.9 Commercial Income
- 7.3.10 Industrial

It shall be the responsibility of the broker participant and r.e. subscriber to properly classify the type of property listed, and if necessary, obtain a legal opinion to determine the correct classification. By classifying the type of property listed, the listing broker certifies that the listing falls under the classification designated. The MLS shall have no affirmative responsibility to verify the property type of any listing filed with the service. However, the MLS shall have the right to have legal counsel make a determination as to the classification of the property type and if the listing broker does not reclassify it accordingly, the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. shall have the right to reject or remove any such listing that it determines falsely represents the classification of property type of the listing.

7.4 Compliance with California and Federal Law. Notwithstanding any other provision of these MLS rules and regulations to the contrary, the service shall accept any listing that it is required to accept under California or federal law.

7.5 Mandatory Submission. Broker participants shall input exclusive right to sell or exclusive agency listings on one to four unit residential property and vacant lots located within the service area of the MLS within 48 hours (excepting weekends, holidays and postal holidays) after all necessary signatures of the seller(s) have been obtained on the listing. Only those listings that are within the service area of the MLS must be input. Open listings or listings of property located outside the MLS's service area (see section 7.7) are not required by the service, but may be input at the broker participant's option.

7.6 Exempted Listings. If the seller refuses to permit the listing to be disseminated by 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.

7.7 Service Area. The MLS's service area shall be determined by the MLS Committee, subject to approval by the Board of Directors. If the AO.R. has entered into regional MLS agreements or a regional MLS corporation with other MLSs and has enlarged the service area as part of the agreement or corporation, submission of the type of listings specified in section 7.5 is mandatory for the area covered by the combined service areas of the Associations signatory to the regional MLS agreement or part of the regional MLS corporation.

7.8 Change of Listing Information. Listing brokers shall input any change in listing information, including the listed price or other change in the original listing agreement, to the MLS within twenty four (24) hours (excepting weekends, holidays and postal holidays) after the authorized change is received by the listing broker. By inputting such changes to the MLS, the listing broker represents that the listing agreement has been modified in writing to reflect such change or that the listing broker has obtained other legally sufficient written authorization to make such change.

7.9 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 the listing broker has received written permission from the seller to withdraw the listing. The MLS may require the listing broker to provide a copy of such written permission. Sellers do not have the unilateral right to require the MLS to withdraw a listing without the listing broker's concurrence. However, the MLS reserves the right to remove a listing from the MLS data base if the seller can document that his or her listing agreement with the listing broker has been terminated or is invalid.

7.10 Contingencies. Any contingency or condition of any term in a listing shall be specified and noticed to the participants.

7.11 Detail on Listings Filed With the Service. All listings input into the MLS shall be complete in every detail including full gross listing price, listing expiration date, compensation offered to other broker participants and any

other information required to be included as determined by the MLS Committee and approved by the Board of Directors. Listings that are incomplete shall be ineligible for publication in the MLS and subject to immediate removal.

7.12 Unilateral Contractual Offer; Subagency Optional. In filing a property with the MLS, the broker participant makes a blanket unilateral contractual offer of compensation to the other MLS broker participants for their services in selling the property. Except as set forth in Rule 7.15 below or pursuant to California Civil Code Section 1087, a A broker participant must specify some compensation to be paid to either a buyer's agent or a subagent and the offer of compensation must be stated in one, or a combination of, the following forms (1) a percentage of the gross selling price; or (2) a definite dollar amount. The amount of compensation offered through the MLS may not contain any provision that varies the amount of compensation offered based on conditions precedent or subsequent or on any performance, activity or event. Furthermore, the MLS reserves the right to remove a listing from the MLS database that does not conform to the requirements of this section. At the broker participant's option, a broker participant may limit his or her offer of compensation to buyer's agents only, to subagents only, or make the offer of compensation to both. Any such limitations must be specified on the property data form and in the MLS. The amount of compensation offered to buyers' agents or subagents may be the same or different but must be clearly specified on the property data profile sheet. Broker participants wishing to offer subagency to the other MLS broker participants must so specify on the property data profile sheet and on the MLS, otherwise, the offer of compensation does not constitute an offer of subagency.

7.13 Acceptance of Contractual Offer. The broker participant's contractual offer (with or without subagency) is accepted by the participant/selling broker by procuring a buyer which ultimately results in the creation of a sales or lease contract. Payment of compensation by the participant/listing broker to the participant/cooperating broker under this section is contingent upon **either** (1) the final closing **or** (2) the participant/listing broker's receipt of monies resulting from the seller's or buyer's default of the underlying sales or lease contract. Notwithstanding this section, the listing broker and/or cooperating broker shall still retain any remedies they may have against either the buyer or seller due to a default under the terms of the purchase agreement, listing agreement or other specific contract. Any dispute between participants arising out of this section shall be arbitrated under Section 16 of these rules and shall not be considered a MLS rules violation.

7.14 Consent to Act as Dual Agent. By offering compensation and/or subagency to broker participants, the listing broker is not automatically representing that the seller has consented to the cooperating broker acting as a dual agent representing both the buyer and the seller. No cooperating broker shall act as both an agent of the buyer and the seller without first contacting the listing broker and ascertaining that the seller has consented to such dual agency.

7.15 Estate Sale, Probate, Bankruptcy and Lender Approval Listings.

7.15.1 Estate Sale, Probate and Bankruptcy Listings. Compensation offered through the MLS to cooperating brokers on estate sale, probate or bankruptcy listings is for the amount published therein as long as the cooperating broker produces the contract which is ultimately successful and confirmed by the court, if court confirmation is required. In the event the contract produced by the cooperating broker is overbid in court and the overbid contract is confirmed, the original cooperating broker shall receive the amount of compensation specified as "unconfirmed cooperating broker's compensation" or "u.c.b." in the property data profile sheet and on the MLS. For estate sale or probate listings, the compensation offered through the service under these rules and this section shall be considered an agreement as referred to in California Probate Code Section 10165 and will therefore supersede any commission splits provided by statute when there is no agreement. This section contemplates that estate sale, probate and bankruptcy judges have broad discretion and therefore are not intended as a guarantee of a specific result as to commissions in every probate or bankruptcy sale.

7.15.2 Lender Approval Listings. Compensation offered through the MLS to cooperating brokers on listings which require lender approval (commonly referred to as "short sale" listings) is for the amount published therein unless the listing broker indicates on the MLS the following: (a) the fact that the sale and gross commission are subject to lender approval; and (b) the amount or method by which the compensation offered through the MLS will be reduced if the lender reduces the gross commission.

7.16 Changes to Offer of Compensation By Listing Broker to All Broker Participants. The listing broker may, from time to time, adjust the published compensation offered to all MLS broker participants with respect to any listing by changing the compensation offered on the MLS or providing written notice to the MLS of the change. Any change in compensation will be effective after the change is published in the MLS, either through electronic transmission or printed form, whichever occurs first. The listing broker may revoke or modify the offer of compensation in advance as to any individual broker participant in accordance with general contract principles but in no event shall the listing broker revoke or modify the offer of compensation without the cooperating broker's consent later than the time the cooperating broker (a) physically delivers or transmits by fax or e-mail to the listing broker a signed offer from a prospective buyer to purchase the property for which the compensation has been offered through the MLS, or (b) notifies the listing broker in person or by telephone, fax or e-mail that the cooperating broker is in possession of a signed offer from a prospective buyer to purchase the property for which the compensation has been offered through the MLS and is awaiting instructions from the listing broker as to the manner of presentation or delivery of that offer. Any independent advance revocations, modifications of the offer or agreements between real estate brokers are solely the responsibility of such brokers and shall not be submitted to, published by, or governed in any way by the service.

7.17 Broker Participant or R.E. Subscriber as Principal. If a listing broker, has any interest in property, the listing of which is to be disseminated through the service, that person shall disclose that interest on the MLS.

7.18 Multiple Unit Properties. All properties which are to be sold or which may be sold separately must be indicated individually in the MLS and will be published separately. When part of a listed property has been sold, the listing broker shall input the appropriate changes on the MLS.

7.19 Expiration, Extension, and Renewal of Listings. Listings shall be removed from the MLS database on the expiration date specified on the listing unless the listing is extended or renewed by the listing broker. The listing

broker shall obtain written authorization from the seller(s) before filing any extension or renewal of a listing. Any renewals or extensions received after the expiration date of the original listing shall be treated as a new listing and will be subject to any fees applicable to new listings. At any time and for any reason, the MLS has the right to request a copy of the seller's written authorization to extend or renew a listing. If a listing broker is requested to provide a copy of such authorization and does not do so within twenty four (24) hours of the request, the listing shall be subject to immediate removal from the MLS.

7.20 Listings of Participants or Subscribers Suspended, Expelled or Resigned.

7.20.1 Failure to Pay MLS Fees; Resignation. When a participant or subscriber is suspended or expelled from the service for failure to pay MLS fees or charges, or if the participant or subscriber resigns from the service, the MLS shall cease to provide services to such participant or subscriber, including continued inclusion of listings in the MLS compilation of current listing information. In the event listings are removed from the MLS pursuant to this section, it shall be the sole responsibility of the participant to notify the seller(s) that the property is no longer listed in the MLS.

7.20.2 Violation of MLS Rules. When a participant or subscriber is suspended or expelled from the service for a violation of the MLS rules and regulations, the MLS shall cease to provide services to such participant or subscriber except that the listings in the MLS at the time of suspension or expulsion shall, at the suspended or expelled participant's option, be retained in the MLS compilation of current listing information 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. In the event listings are removed from the MLS pursuant to this section, it shall be the responsibility of the participant to notify the seller(s) that the property is no longer listed in the MLS.

7.21 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 between participants and nonparticipants.

7.22 Dual or Variable Rate Commission Arrangements. The existence of a dual or variable commission arrangement shall be disclosed by the listing broker by a key, code or symbol as required by the MLS. A dual or variable rate commission arrangement is one in which the seller or owner 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 or owner 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 or owner. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale that results through the efforts of the seller or owner. If the cooperating broker is representing a buyer or tenant, the cooperating broker must then disclose such information to his or her client before the client makes an offer to purchase or lease.

7.23 Right of Listing Broker and Presentation of Counter Offers. The listing broker has the right to participate in the presentation of any counter-offer made by the seller or lessor. The listing broker does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating 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.

8. DOCUMENTATION; PERMISSION; ACCURACY OF INFORMATION

8.1 Listing Agreement and Seller's Permission. Prior to inputting a listing to the service, the listing broker shall obtain the written agreement of the seller expressly granting the listing broker authority to: (1) file the listing with the service for publication and dissemination to those authorized by the MLS; (2) act as an agent for the seller; (3) abide by the rules of the service; (4) provide timely notice of status changes of the listing to the service; (5) provide sales information including selling price to the service upon sale of the property for publication and dissemination to those authorized by the MLS and (6) publish sales information after the final closing of a sales transaction in accordance with these MLS rules (See Section 10.1).

8.2 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 r.e. 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 r.e. 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 data base in addition to disciplining the participant and subscriber for a violation of MLS rules.

8.3 Accuracy of Information; Responsibility for Accuracy. By inputting information into the MLS computer database, the listing broker represents that the information input is accurate to the best of the listing broker's knowledge. The listing broker shall use good faith efforts to determine the accuracy of the information and shall not submit or input information which the listing broker knows to be inaccurate. Upon receipt of the first publication or electronic transfer by the MLS of such information the listing broker shall make all necessary corrections. The MLS merely publishes the MLS information and has no affirmative responsibility to verify the accuracy of the MLS information. The MLS, however, reserves the right to require participants and subscribers to change their MLS information if the MLS is made aware of alleged inaccuracies in the MLS information and the MLS determines that such inaccuracies do in fact exist. If a participant or subscriber fails to make necessary or required corrections to their MLS information, the participant and subscriber shall indemnify and hold harmless the service for any claims, costs, damage or losses, including reasonable attorney fees and court costs, incurred by the MLS as a result of such failure.

In no event will the MLS be liable to any MLS participant, subscriber or any other party for any indirect, special or consequential damages arising out of any information published in the MLS and all other damages shall be limited to an amount not to exceed the MLS fees paid by the listing broker.

8.4 Input Defined. All references or uses of the word "input" shall also include information which is submitted to the MLS for input in the MLS data base by the MLS staff, whether such information was provided to the MLS staff on a "property data form" or otherwise.

8.5 Buyer, Seller, Purchase and Sale Defined. All references to the buyer shall also include lessee. All references to the seller shall also include lessor. All references to a purchase shall also include a lease. All references to a sale shall also include a lease.

9. SELLING PROCEDURES

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

(a) the listing broker gives the cooperating broker specific authority to show and/or negotiate directly with the seller, or
(b) after reasonable effort and no less than 24 hours, the cooperating broker cannot contact the listing broker or his representative. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating broker by giving notice to all participants through the MLS.

In the event all showings and negotiations will be conducted solely by the seller, the listing broker shall clearly set forth such fact in the listing information published by the service.

9.2 Presentation of Offers. The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. In the event a listing broker will not be participating in the presentation of offers, the listing broker shall clearly indicate this fact in the listing information published by the service.

9.3 Submission of Offers. The listing broker shall submit to the seller all offers until closing unless precluded by law, governmental rule or expressly instructed by the seller otherwise.

9.4 Right of Cooperating Broker in Presentation of Offer. The cooperating broker has the right to participate in the presentation of any offer to purchase he secures. The cooperating broker does not have the right to be present at any discussion or evaluation of that offer by the seller and the listing broker. However, if the seller gives written instructions to the listing broker requesting that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker shall convey the offer to the listing broker for presentation. In such event, the cooperating broker shall have the right to receive a copy of the seller's written instructions from the listing broker. Nothing in this section diminishes or restricts the listing broker's right to control the establishment of appointments for offer presentations.

9.5 Change of Compensation Offer by Cooperating Broker. The cooperating broker shall not use the terms of an offer to purchase to attempt to modify the listing broker's offer of compensation nor make the submission of an executed offer to purchase contingent on the listing broker's agreement to modify the offer of compensation. However, failure of a cooperating broker to comply with this rule shall not relieve a listing broker of the obligation to submit all offers to the seller as required by Section 9.3.

9.6 Cooperating Broker as a Purchaser. If a cooperating broker wishes to acquire an interest in property listed with a listing broker, such contemplated interest shall be disclosed to the listing broker prior to the time an offer to purchase is submitted to the listing broker.

10. REPORTING SALES AND OTHER INFORMATION TO THE SERVICE

10.1 Reporting of Sales. Listings with accepted offers shall be reported to the MLS or input into the MLS database as "pending" within 24 hours of the acceptance by the listing broker unless the negotiations were carried on under Section 9.1 (a) or (b), in which case, the cooperating broker shall report to the MLS or input the listing in the MLS as "pending" and send a copy of the listing's changed status to the listing broker within 24 hours after acceptance. The listing shall be published on the MLS as pending with no price or terms prior to the final closing. Upon final closing, the listing broker shall report or input the listing in the MLS as "sold" within 24 hours of the final closing date. Listings which were not input into the MLS as a result of the seller's instructions may be input into the MLS "sold" data at the listing broker's option.

10.2 Reporting Cancellation of Pending Sale. The listing broker shall report immediately to the service the cancellation of any pending sale and the listing shall be reinstated immediately as long as there is still a valid listing.

10.3 Refusal to Sell. If the seller of any listed property filed with the service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the service and to all participants.

11. OWNERSHIP OF MULTIPLE LISTING SERVICE COMPILATIONS AND COPYRIGHTS

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

11.2 Active Listing MLS Compilation Defined. "Active listing MLS compilation" shall mean that portion of the MLS compilation which includes listings currently for sale and all other indexes and other information relating to the current listing information.

11.3 Comparable Data MLS Compilation Defined. "Comparable data MLS compilation" shall mean that portion of the MLS compilation that includes the off market data, sold and appraisal information regarding properties that are not currently for sale and all indexes and information relating to the sold information compilation.

11.4 Authority to Put Listings in MLS Compilation. By submitting any property listing data form to the MLS or inputting listing information into the MLS compilation, participants and subscribers represent that they have been authorized to grant and also thereby do grant authority for the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. to include the property listing data in its copyrighted MLS compilation. By submitting any property listing data form to the MLS, participants and subscribers represent that they have been authorized to report information about

the sales, price and terms of a listing, have authority to grant and also thereby does grant authority for the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. to include the sold information in its copyrighted MLS compilation.

11.5 Photographs on the MLS. By submitting photographs to the MLS which were taken by the participant and/or subscriber, the submitting participant and/or subscriber grants the MLS and the other participants and subscribers the right to reproduce and display the photographs in accordance with these rules and regulations.

11.6 Copyright Ownership. All right, title, and interest in each copy of every MLS compilation created and copyrighted by the AO.R., and in the copyrights therein, shall at all times remain vested in the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. The MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. shall have the right to license such compilations or portions thereof to any entity pursuant to terms agreed upon by the Board of Directors.

11.7 Leasing of MLS Compilations. Each participant shall be entitled to lease from the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. the number of copies of each MLS compilation of active listing information sufficient to provide the participant and subscriber with one copy of such MLS compilation. Participants and subscribers shall acquire by such lease only the right to use the MLS compilations in accordance with these rules. 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.

12. PROHIBITIONS AND REQUIREMENTS

12.1 Notification of California Department of Real Estate (DRE) or California Office of Real Estate Appraisers (OREA) Action. Participants and subscribers are required to notify the MLS within 24 hours of any final action taken by the DRE or the OREA against the participant, subscriber or any licensee affiliated with the participant or subscriber including, but not limited to any final decisions restricting, suspending or revoking a real estate license or appraiser's certification or license of a participant, the participant's firm or corporation under which the participant or subscriber acts, or any licensee affiliated with the participant or the participant's firm or licensee or appraiser who was affiliated with the participant or participant's firm at the time of the underlying act.

12.2 Violations of the Law. If a participant, subscriber, appraiser or a licensee affiliated with a participant or subscriber commits a felony or a crime involving moral turpitude or violates the Real Estate Law or the laws relating to appraisers, the participant and subscriber shall be in violation of this section. However, a participant or subscriber shall not be found to have violated this section unless the participant, subscriber, appraiser or salesperson licensed to the participant has been convicted, adjudged, or otherwise recorded as guilty by a final judgment of any court of competent jurisdiction of (1) a felony, or (2) a crime involving moral turpitude, or (3) on a determination by any court of competent jurisdiction, or official of the State of California authorized to make the determination, that the participant or subscriber violated a provision of the California Real Estate Law or a Regulation of the Real Estate Commissioner or law relating to appraisers.

12.3 Supervision of Licensees and Appraisers. In addition to the notification requirements of paragraph 12.1, a participant may not allow any licensee, under the participant's license, whose license has been revoked, suspended or restricted by the DRE to use the MLS in any manner while the DRE discipline is in effect except that the licensee may use the MLS under a restricted license providing such use is consistent with and does not violate such license restrictions.

12.4 Solicitation of Listing Filed With the MLS. Participants and subscribers shall not solicit a listing filed with the service unless such solicitation is consistent with Article 16 of the N.A.R. Code of Ethics, its Standards of Practice and its Case Interpretations. The purpose of this section is to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited through unwanted phone calls, visits and communications, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration. This section is also intended to encourage brokers to participate in the service by assuring them that other participants and subscribers will not attempt to persuade the seller to breach the listing agreement or to interfere with the listing broker's attempts to market the property. This section does not preclude solicitation of listings under circumstances otherwise permitted under Article 16 of the N.A.R. Code of Ethics, its Standards of Practice and its Case Interpretations.

12.5 Misuse of Remarks. Participants and subscribers may not use the remarks in a property data profile sheet or listing submitted to the MLS or inputted directly into the MLS database for purposes of disparaging other real estate agents or conveying information about other offices or for conveying any other information that does not directly relate to the marketing of the listing.

12.6 "For Sale" Signs. Only the "For Sale" signs of the listing broker may be placed on the property.

12.7 "Sold" Signs and Use of the Term "Sold." Only broker participants or r.e. subscribers who participated in the transaction as the listing broker or cooperating broker may claim to have "sold" the property. Prior to closing, a cooperating broker may post a "sold" sign on a property only with the consent of the listing broker. This section does not, however, prohibit any broker from advertising the addresses and prices of the properties that have sold in a neighborhood after the information regarding the properties has been published as long as the advertisement does not imply the agent was involved in the transaction unless such is the case and as long as the advertisement otherwise presents a "true picture" as is meant under Article 12 of the N.A.R. Code of Ethics, its Standards of Practice and its Case Interpretations.

12.8 Advertising of Listing Filed With the MLS. A listing shall not be advertised by any participant or subscriber, other than the listing broker, without the prior consent of the listing broker except as provided in Sections 12.16 and 12.19 relating to display of listings on the internet.

12.9 Limitations on Use of Association or MLS Information in Advertising. Except as provided in Sections 12.7, 12.8, 12.11 and 12.15, truthful use of information from the MLS compilation of current listing information, from the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC.'s "statistical report," or from any "sold" or "comparable"

report of the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. or MLS for public mass media advertising by an MLS participant or subscriber or in other public representations for purposes of demonstrating market share is not prohibited. However, any print or non-print forms of advertising or other forms of public representations 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 _____ /Association of REALTORS® (alternatively, from the _____ MLS) for the period (date) through (date).

Display of MLS data is deemed reliable but is not guaranteed accurate by the MLS.

12.10 False or Misleading Advertising and Representations. Participants and subscribers may not engage in false or misleading advertising, including, but not limited to, advertisements or representations regarding the participant’s or subscriber’s relationship to the service, about the service itself, or about any property listed with the service.

12.11 Use of MLS Information. In recognition that the purpose of the MLS is to market properties and offer compensation to other broker participants and r.e. subscribers for the sole purpose of selling the property, and that sellers of properties filed with the service have not given permission to disseminate the information for any other purpose, participants and subscribers are expressly prohibited from using MLS information for any purpose other than to market property to bonafide prospective purchasers or to support market evaluations or appraisals as specifically allowed by Sections 12.14, 12.15, ~~and~~ 12.16 and 12.19. Any uses of MLS information inconsistent with these Sections is expressly prohibited. Nothing in this Section, however, shall limit the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. from entering into licensing agreements with MLS participants and subscribers or other third parties for use of the MLS information.

12.12 Confidentiality of MLS Information. Any information provided by the service to the participants and subscribers shall be considered and treated as confidential by participants and subscribers and shall be for the exclusive use of the participants and subscribers for purposes described in Sections 2, 12.7, 12.11, 12.14, 12.15, 12.16, 12.19 and this section. Participants and subscribers shall at all times maintain control over and responsibility for each copy of any MLS compilation leased to them by the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. and shall not distribute any such copies to persons other than participants and subscribers. Participants and subscribers are responsible for the security of their passcodes and shall not give or allow use of or make available their pass codes to any person. Participants and subscribers may reproduce or display the information as provided in these rules.

12.12.1 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 data base is solely for clerical and administrative functions for the participant or subscriber under whom the clerical user is registered.

12.13 Access to Comparable and Statistical Information. MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the service, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. members and individuals affiliated with MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise specified in these rules and regulations.

12.14 Display. Subject to Sections 12.15, and 12.16 and 12.19, broker participants and r.e. subscribers shall be permitted to display the MLS compilation in either electronic or printed format to specifically identified and bonafide 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. Broker participants and r.e. subscribers shall be permitted to display the MLS compilation in either electronic or printed format to specifically identified and bonafide sellers or prospective sellers only in conjunction with their ordinary business activities in listing properties. Appraiser participants and appraiser subscribers shall be permitted to display the MLS compilation to the person requesting the appraisal only in conjunction with their ordinary business activities of producing a written appraisal. Such displays under this section shall be only in the immediate presence of the MLS participant or subscribe.

12.14.1 Clerical Users. 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.

12.15 Reproduction. "Reproduction" shall include, but not be limited to, making photocopies, computer printouts, electronic transfers (including email), or downloading of MLS data or compilations. Participants and subscribers or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof except as provided in Sections 12.16, 12.19 and in the following limited circumstances:

12.15.1 Copies to Prospective Purchasers. Broker participants and r.e. subscribers may reproduce from the MLS compilation, and distribute to prospective real estate purchasers, copies of those portions of the MLS compilation consisting only of a description of the property, including the address, features, financing and price. Such "client copies" shall also comply with the following:

a. No advertising may be visible except that the name, company logo and contact information of the Participant and/or the name, company logo and contact information of the non-principal broker or sales licensee, and any other information required by California law or regulation may not be prohibited.

b. Permissible MLS data may be augmented with additional data not otherwise prohibited from display, provided the source of any additional data is clearly identified.

c. All listings provided shall identify the name of the listing firm and the name of the listing agent in a manner designed to easily identify such listing firm and agent.

d. No more than _____ (insert number that will be the same as the number in 12.19.10) active listings may be provided in response to any inquiry.

12.15.2 Information Reproduced. Unless the participant or subscriber obtains prior written consent from the listing broker, the information reproduced pursuant to this section shall not include the following:

a. Property owner's name, phone number, and address (if different than the listed property);

b. ~~Showing instructions including any references to a lock box, burglar alarm or any security system, or to the vacancy of the property;~~ Instructions or remarks intended for cooperating

brokers, including but not limited to showing instructions or security references (ex: lock box, burglar alarm or security system, vacancies) regarding the listed property:

- c. Type of listing;
- d. Compensation or bonuses offered to cooperating brokers.
- e. Other information ~~which~~ that goes beyond a description of the property.

12.15.3 Copies for Appraisals. Participants and subscribers may reproduce from the MLS compilation, and attach to an appraisal as supporting documentation copies of those portions of the MLS compilation consisting only of such information on properties necessary to support a written appraisal or estimate of value on a particular property.

12.15.4 Downloading into Computers. Participants and subscribers may download MLS information into a computer or computer system as long as:

- a. Access to the computer or computer system receiving the information is strictly limited to authorized participants, subscribers and clerical users as defined in these rules; and
- b. The information is only retransmitted to the participants, subscribers and clerical users authorized to access the computer or computer system by these rules; and
- c. The information is not reformatted or used to create another product except as may be used by the participant or subscriber who downloaded the data and such use strictly complies with sections 12.7, 12.11, 12.15, ~~and~~ 12.16 and 12.19.

12.15.5 Sold Information. Individuals legitimately in possession of current listing information, “sold” information, “comparables” or statistical information may utilize such information to support an estimate of value on a particular property for a particular client. However, only such information that the MLS has deemed to be nonconfidential, and necessary to support the estimate of value and used in conjunction with work product (i.e., more than a mere recitation of raw data) 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.

12.16 Use of Active Listing Information on Internet. [Also known as Internet Data Exchange ("IDX")] (a) Subject to paragraphs (b) through (g) below, and notwithstanding anything in these rules and regulations to the contrary, participants and subscribers may display on their public websites aggregated MLS active listing information through either downloading and placing the data on the participant or subscriber’s public access websites or by framing such information on the MLS or association public access website (if such a site is available).

(b) The listing brokers’ consent for such internet display is presumed, in satisfaction of Rule 12.8, unless a listing broker affirmatively notifies the MLS that the listing broker refuses to permit display on either on a blanket or on a listing-by listing basis. Listing brokers that refuse to permit other MLS participants or subscribers to display their listing information on a blanket basis may not display MLS active listing information of other brokers’ listings.

(c) Participants and subscribers shall not display confidential information fields, as determined by the MLS in the MLSs’ sole discretion, such as that information intended for cooperating brokers rather than consumers.

(d) All listings on a participant or subscriber's site displayed by framing or other electronic means, shall identify the name of the listing firm and the name of the listing agent in a manner designed to easily identify such listing firm or agent.

(e) Participants and subscribers shall not modify the information displayed pursuant to these MLS rules.

(f) Information displayed shall indicate the source of the information being displayed and the most recent date updated. Participants and subscribers shall update all downloads and refresh all data at least once every seven [7] days;

(g) Sharing of the MLS compilation with any third party not authorized by the MLS is prohibited. Participants and subscribers shall indicate on their websites that the information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing.

12.16.1 Registry of Authorized Participants and Subscribers.

The MLS has the right to require that Participants and Subscribers partaking in the display of MLS active listing information of other brokers' listings pursuant to Section 12.16 register with the MLS before displaying said MLS active listing information.

12.16.2 Right to Charge for Download. The MLS has the right to charge the costs of adding or enhancing its downloading capacity to Participants and Subscribers who request downloading of listing information pursuant to Section 12.16.

12.17 Applicability of Rules to MLS or Association. Nothing in these rules shall limit the right of the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. or MLS to enter into licensing agreements with third parties for use of the MLS compilations or any portion thereof in accordance with terms approved by the Board of Directors.

12.18 Listing Broker's Right to Opt Out of Internet Advertising of MLS Information. If the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. advertises MLS information on the Internet or licenses MLS information for advertising on the Internet, the listing broker also shall have the right to opt out of such advertising in accordance with the MLS's procedures for opting out. The listing broker shall have the right to refuse to have listings displayed on a blanket basis or on a listing by listing basis in accordance with Section 12.16 by affirmatively notifying the MLS in accordance with the MLS procedures for opting out. Notwithstanding any thing in these rules and regulations to the contrary, the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. reserves the right to determine whether to provide Internet advertising services and whether such services are to be made available to non-MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. members.

12.19 Virtual Office Websites ("VOWs"):

12.19.1 VOW Defined. A VOW (1) means any participant's Internet website (and, where authorized, any subscriber's website, subject to the participant's permission, oversight, supervision and responsibility), other than an IDX site as set forth in section 12.16, through which consumers receive real estate brokerage services, including the opportunity to search for MLS data conditional on the participant's oversight, supervision and responsibility and (ii) not withstanding anything in these rules and regulations to the contrary, is subject to paragraphs 12.19.1 through 12.19.13 below:

12.19.2 Authorization and Opt Out. Participants' and subscribers' use of listings of other participants on VOWs is subject to the consent of such other participants. Participants' consent for display of their listings by other participants and subscribers on VOWs pursuant to these

rules is presumed unless a participant independently and affirmatively withholds that consent ("opts out").

Participants may independently "opt out" of the VOWs of other participants and subscribers on (a) a blanket basis ("blanket opt out") or (b) on a selective basis ("selective opt out").

(a) "Blanket opting out" can be accomplished by either: (i) notifying the MLS, which shall withhold (or instruct the VOW vendor to withhold) the listings of any "blanket opt out" participant from its VOW download of listing information; or (ii) notifying the MLS, which shall compile and maintain a list of the names of any "blanket opt out" participants and make such list available to all participants and subscribers operating VOWs in which case it is the responsibility of participants and subscribers to refrain from displaying the listings of "blanket opt out" participants on their VOWs.

(Note: The MLS must select one of the two options [either (i) or (ii)] shown immediately above.)

(b) "Selective opting out" can be accomplished by the "selective opt out" participant providing written notice to another participant or subscriber operating a VOW of the "selective opt out" participant's independent decision to withhold consent for display of that participant's listings on the VOW. In the event such opt out notice is directed to the participant, the participant is responsible for notifying all of its subscribers of said opt out. An opt out notice directed to a specific subscriber, however, must also include a written notice to that subscriber's responsible participant. Any "selective opt out" is solely the responsibility of such selective opt out participants and shall not be published by the service.

12.19.3 Operational Compliance. Participants, and subscribers acting on their behalf, operating VOWs must establish a broker-consumer relationship with each consumer seeking to receive information from a participant's or subscriber's VOW ("Registrant") evidenced by and in compliance with the following:

(a) Confirmation and Verification: Participants and subscribers must (1) obtain the name and valid email address of each Registrant and (2) send an email to each Registrant in order to confirm that the Registrant has received and agreed to the VOW's Terms of Use. Participants and subscribers can provide access to their VOW only after a Registrant's email address is verified as valid and the Registrant's agreement to the VOW's Terms of Use is confirmed.

(b) Terms of Use: Participant's and subscriber's Terms of Use shall include the following terms:

1. That the Registrant acknowledges entering into a consumer-broker relationship with the participant;

2. That all data obtained from the VOW is only for the Registrant's personal, non-commercial use;

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;

4. That the Registrant will not copy, redistribute or retransmit any of the data or information provided; and

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

6. That the Registrant authorizes the MLS and the other MLS participants to access the VOW for the purpose of monitoring the site's compliance with the applicable MLS rules and policies.

Participant's and subscriber's Terms of Use may also include other provisions determined by the participant.

(c) Financial Obligation: Participants' and subscribers' Terms of Use may not impose a financial obligation on a Registrant. Financial obligations, if any, must be established separately from the participants' and subscribers' Terms of Use, must be prominently labeled, and may not be accepted solely by a "mouse click." (The term "mouse click" denotes a purposeful action by a computer user with a pointing device, such as a computer "mouse" or functionally equivalent mechanism, or simply a keyboard entry, by which the user affirmatively makes a selection or choice.)

(d) Representation Agreement: Participants' and subscribers' Terms of Use may not create any representation agreement between a Registrant and the participant. Representation agreements, if any, must be established separately from the participants' and subscribers' Terms of Use, must be prominently labeled, and may not be accepted solely by a "mouse click."

(e) User Name and Password: Participants and subscribers must obtain from or supply to each Registrant a user name and a password, the combination of which must be different from those of all other Registrants on the VOW, before being permitted to search and retrieve information from the MLS database via the VOW.

(f) Protection from Misappropriation: Participants' and subscribers' VOWs must protect MLS data from misappropriation by employing reasonable efforts to monitor for and prevent "scraping" and other unauthorized accessing, reproduction or use of the MLS database.

(g) Seller Withholding: Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or their property address from display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) shall not be accessible to Registrants. This does not preclude listing participants or subscribers from displaying on their VOW or their other website(s) the listing or property address of consenting sellers.

(h) Source and Update: MLS information available on any VOW must indicate the source of the information being displayed and the most recent date uploaded and must be refreshed at least once every seven (7) days.

(i) Distribution of Database: No portion of the MLS database shall be distributed, provided to or made accessible to any person except as provided for in these rules and/or in the National Association of REALTORS VOW policy.

(j) Privacy Policy: VOWs must display the participant's and subscriber's privacy policy informing Registrants how information they provide may be used.

(k) Objective Exclusions: Not all listings from the MLS must be displayed as long as any exclusions from display on participants' and subscribers' VOWs are based on objective criteria, e.g. type of property, listed price or geographical location.

(l) Referral Fees: Participants and subscribers may not provide the identity of Registrants to any other entity for compensation except where (1) the participant's residential real estate brokerage activities principally consist of listing or selling the types of properties required to be filed with the MLS; (2) Registrants are seeking property in a price range or in a location for which the participant ordinarily does not provide real estate brokerage services; and (3) the number of Registrant identities provided, or the corresponding revenue generated, is an insubstantial portion of the participant's real estate brokerage activities. For purposes of this rule, "selling" does not include making referrals of prospective purchasers to other real estate brokers and agents and "listing" does not include making referrals of prospective sellers to other real estate brokers and agents.

(m) Notice of Intent to Establish VOW: Participants and subscribers (as authorized in accordance with Section 12.19.4 below) must notify the MLS of their intention to establish a VOW, and must make their VOW directly accessible to the MLS and other MLS participants for purposes of monitoring/ensuring compliance with applicable rules and policies.

12.19.4 Subscriber Authorization. Subscribers are authorized by the Service to operate VOWs subject to their participant's written consent submitted to the Service, expressly permitting said subscribers to have VOWs. Notwithstanding, VOWs remain subject to the participant's control, and both the participant and the subscriber operating the VOW shall be accountable under these rules.

12.19.5 Confidential Information Fields. Participant's and subscriber's VOWs may not make available for consumer self-directed search by or display to Registrants the following data intended exclusively for other MLS Participants and their affiliated licensees:

1. Off market comparable data such as expired, withdrawn, pending or sold listings.

[However, use of "sold" information, in conjunction with work product, to develop or support opinions of real property value or price (ex: appraisals, broker price opinions and Comparable Market Analysis ("CMAs")) is permissible as long as such opinions of real property value or price consist of more than a mere recitation of raw data].

2. The compensation offered to other MLS Participants.

3. The type of listing agreement, i.e., exclusive right to sell or exclusive agency.

4. The seller(s) and occupant(s) name(s), phone number(s) and email address(es) where available.

5. Instructions or remarks intended for cooperating brokers only, including but not limited to showing instructions or security references (ex: lock box, burglar alarm or security system, vacancies) regarding the listed property.

6. Any other information that goes beyond a description of the property.

12.19.6 Advertising vs. Contact Information. No advertising may be visible on a page displaying any portion of the listings of other Participants except that the name, company logo and contact information of the Participant operating the VOW and/or the name, company logo and contact information of the non-principal broker or sales licensee operating the VOW, and any other information required by California law or regulation may not be prohibited.

12.19.7 Modification. MLS data fields authorized for display may not be changed. MLS data may be augmented with additional data not otherwise prohibited from display provided the source of any additional data is clearly identified. This rule does not restrict the format of MLS data display or display of fewer than all of the listings or fewer authorized data fields.

12.19.8 Notice and Disclaimers. Display of MLS data must include a notice indicating that the data is deemed reliable but is not guaranteed accurate by the MLS. Participants' and subscribers' VOWs may include other appropriate disclaimers necessary to protect the participant, subscriber and/or the MLS from liability.

12.19.9 Identity of Listing Broker and Agent. All listings displayed on VOWs shall identify the name of the listing firm and the name of the listing agent in a manner designed to easily identify such listing firm and agent.

12.19.10 Viewable Number of Listings. Registrants may view, retrieve or download not more than _____ (insert number that will be the same as the number in 12.15.1) active listings in response to any inquiry.

12.19.11 Source of Other Listing Data. Participants and subscribers displaying other brokers' listings obtained from sources other than this MLS (e.g. from other MLSs, from non-Participant brokers, etc.) shall display the source from which each such listing was obtained.

12.19.12 Password Validity Period. Registrants' passwords may be valid no longer than 180 days, after which such passwords must be reconfirmed or changed.

12.19.13 Right to Charge for Download. The MLS has the right to charge the costs of adding or enhancing its downloading capacity to participants and subscribers who request downloading of listing information pursuant to Section 12.19.

13. LOCKBOXES

13.1 Eligibility for Lockboxes. MLS participants and subscribers are eligible for lockbox privileges if they otherwise qualify under this section. Clerical users are not eligible for lockbox privileges. MLS participants and subscribers shall be eligible to hold a lockbox key provided:

- a) The key holder signs a lease agreement with the MLS.
- b) The participant to which the key holder is licensed cosigns the lease agreement with the MLS.
- c) The key holder continues to comply with all MLS rules relating to lockbox keys.
- d) The key holder and participant to whom the key holder is licensed remain eligible for MLS services.

13.2 Key Use and Service. Keys may not be used under any circumstances by anyone other than the key holder, including, but not limited to, lending, borrowing or sharing keys with others. The MLS is not obligated to provide service on keys or lock boxes to individuals who are not the registered lessee or owner of the component.

13.3 Temporary Keys. If the MLS uses electronic lockbox programmers or keypads, a participant may purchase or lease additional programmers or keypads (the "Responsible

Keyholder”) to be issued on a temporary basis to other keyholders in the participant’s firm in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the MLS. Whenever the Responsible Keyholder issues a temporary key, the Responsible Keyholder shall advise the MLS in writing that the programmer or keypad has been issued, to whom, and the date and time of issuance within forty-eight (48) hours. The Responsible Keyholder shall also advise the MLS in writing within forty-eight (48) hours after possession of the previously issued programmer or keypad has been reassumed.

13.4 Accountability. Key holders must account for keys at the time of any inventory conducted by the MLS or at any time requested by the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. Key holders who cease to participate or subscribe to the MLS shall return all key(s) in their possession to the MLS. Failure to return a key(s) will subject the key holder and/or the key holder’s participant to fines and penalties and to being responsible for all costs incurred by the MLS to secure the lock box key system as a result of the failure to return the key(s).

13.5 Deemed Unaccountable. Keys shall be deemed unaccounted for if a key holder refuses or is unable to demonstrate that the key is within the key holder’s physical control.

13.6 Written Authority. Participants and subscribers shall not place a lockbox on a property without written authority from the seller and occupant if other than the seller.

13.7 Listing Broker’s Permission. No participant or subscriber may enter a property with or without a lockbox without the listing broker’s permission. Such permission may be granted by the listing broker by specifying permission to use the lockbox through the MLS. Appraiser participants are expressly prohibited from using lockbox keys to enter a property without either the owner’s or listing broker’s permission.

13.8 Unaccountable Keys. Key holders and participants cosigning with a key holder shall immediately report lost, stolen or otherwise unaccountable keys to the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC.

13.9 Deposits. All key holders shall be required to give the MLS deposits in accordance with the deposit schedule adopted by the MLS Committee and approved by the Board of Directors. Key holders shall forfeit the deposits if the key is lost, stolen or unaccounted for. Key holders shall not be entitled to any interest on their deposits. The MLS is not obligated to refund deposits to individuals who are not the registered lessee or owner of the key.

13.10 Rules Violations. Failure to abide by rules relating to lockboxes as set forth in this section or failure to abide by the key lease agreement may result in discipline as provided in sections 14 and 15 of these rules, in addition to loss of or restriction on all lockbox and key privileges.

13.11 Right to Limit Access. The MLS reserves the right to refuse to issue a key or limit access to lockboxes if, in its sole discretion, it determines the security of the system would be compromised by issuing such keys or granting access to lockboxes.

14. VIOLATIONS OF RULES AND REGULATIONS

14.1 Grounds for Disciplinary Action and Sanctions. After a hearing by a hearing panel as provided in the *California Code of Ethics and Arbitration Manual*, the Board of Directors may take disciplinary action and impose sanctions against any participant and subscriber:

(a) For violation of any MLS rule;

(b) On the participant's or subscriber's being convicted, adjudged, or otherwise recorded as guilty by a final judgment of any court of competent jurisdiction of (1) a felony, or (2) a crime involving moral turpitude, or (3) on a determination by any court of competent jurisdiction, or official of the State of California authorized to make the determination, that the participant or subscriber violated a provision of the California Real Estate Law or a Regulation of the Real Estate Commissioner or the laws relating to appraisers or a regulation of the OREA.

(c) For any violation of subsection (a) by any person, including but not limited to a clerical user or a salesperson, who is not a participant or subscriber but is employed by or affiliated with such participant or subscriber and was providing real estate related services within the scope of the participant's or subscriber's license. Lack of knowledge by the participant or subscriber of such salesperson's conduct shall only go to mitigation of discipline imposed.

(d) For any violation of the N.A.R. Code of Ethics while a member of any Association of REALTORS®.

14.2 Sanctions. Sanctions or disciplinary action for violation of an MLS Rule may consist of one or more of those specified in the *California Code of Ethics and Arbitration Manual*.

14.3 Citations. The MLS Committee, subject to approval of the Board of Directors, may implement a schedule of fines for certain MLS rules violations and direct staff to issue citations for the specified MLS rules violations and implement a procedure whereby the participant and subscriber receiving the citation may either pay the amount specified on the citation or request a full hearing in accordance with the procedures set forth in the *California Code of Ethics and Arbitration Manual*.

15. PROCEDURES FOR MLS RULES HEARINGS

All MLS rules hearings shall be processed in accordance with the *California Code of Ethics and Arbitration Manual* as from time to time amended which is hereby incorporated by reference. Failure to abide by the procedures of the *California Code of Ethics and Arbitration Manual* shall be a violation of these MLS rules.

16. ARBITRATION

16.1 Mandatory Arbitration. By becoming and remaining a participant or subscriber in the MLS, each participant and subscriber agrees to submit disputes arising out of the real estate business which also arises out of, or is in conjunction with, any listing filed with the MLS or any appraisal, to binding arbitration with any other participant or subscriber of this MLS, or participants or subscribers of any other MLS who are authorized to have access to this MLS under Section 6 of these rules. Such arbitrations shall be governed by the *California Code of Ethics and Arbitration Manual* as from time to time amended which is hereby incorporated by reference. This shall be deemed an arbitration agreement within the meaning of Part 3, Title 9 of the California Code of Civil Procedure. Failure to submit to arbitration as provided herein shall be a violation of these MLS rules.

16.2 Other Arbitration Agreements. Notwithstanding any other provision of these rules, if any participant or subscriber enters into an agreement (either before or after a dispute arises) with another participant or subscriber to arbitrate a dispute utilizing non-Association facilities, such persons are not bound to arbitrate the dispute covered by such agreement under these rules utilizing MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. facilities.

16.3 Arbitration Between Association Members. Notwithstanding any other provision of these rules,

(a) If all disputants are members of the same Association of REALTORS®, they shall arbitrate at that Association of REALTORS® in accordance with its rules.

(b) If the disputants are members of different Associations of REALTORS®, they shall arbitrate in accordance with any applicable regional or shared professional standards agreement. In the absence of such an agreement, the disputants remain obligated to arbitrate at the California Association of REALTORS® (“C.A.R.”) in accordance with the C.A.R. Interboard Arbitration Rules.

16.4. Arbitration Involving Nonassociation Members. Notwithstanding any other provision of these rules:

(a) If all disputants are nonassociation members and they receive MLS services through the same MONTEBELLO DISTRICT BOARD OF REALTORS®, INC., they shall arbitrate at the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. unless the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. participates in a regional MLS, in which case, they shall arbitrate in accordance with any applicable regional agreements between the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. and the regional MLS.

(b) If one or more of the disputants are nonassociation members and all disputants receive MLS services through the same MONTEBELLO DISTRICT BOARD OF REALTORS®, INC., they shall arbitrate at the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. unless the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. participates in a regional MLS, in which case, they shall arbitrate in accordance with any applicable regional agreements between the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. and the regional MLS.

(c) If one or more of the disputants are nonassociation members and the disputants receive MLS services through different MONTEBELLO DISTRICT BOARD OF REALTORS®, INC.s and the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC.s participate in a regional MLS, they shall arbitrate in accordance with any applicable regional agreements between the MONTEBELLO DISTRICT BOARD OF REALTORS®, INC.s and the regional MLS.

(d) In the absence of a regional agreement regarding the location of the arbitration, any dispute under subsection (a)-(c) may be conducted at any MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. where the respondent(s) holds association membership or receives MLS services.

16.5 Same Firm. Arbitration between persons from the same firm shall not be available and is not mandated by these rules unless covered by arbitration rules relating to the obligations of MONTEBELLO DISTRICT BOARD OF REALTORS®, INC. members to arbitrate.

16.6 Timing. For purposes of this Section 16, the duty to arbitrate shall be determined when facts giving rise to the dispute occurred. Therefore, a participant or subscriber shall have a duty to arbitrate if the person was an MLS participant or subscriber when facts giving rise to the dispute occurred. Termination of MLS participation or subscription shall not relieve the arbitration duty under this section for disputes that arose when the person was an MLS participant or subscriber. Requests for arbitration must be filed within one hundred and eighty (180) days after the closing of the transaction, if any, or after the facts constituting the matter could have been known in the exercise of reasonable diligence, whichever is later.

17. NONPAYMENT OF MLS FEES

17.1 Nonpayment of MLS Fees. If MLS fees, fines, charges or other amounts owed the MLS are not paid within one month after the due date, the nonpaying participant and/or subscriber's MLS services shall be subject to suspension until such outstanding amounts are paid in full. The MLS may suspend MLS services under this section provided the MLS gives the participant and/or subscriber at least twenty (20) calendar days prior notice of the proposed suspension date. Such notice may be included with the original billing statement for MLS fees, fines or charges or any time thereafter. In the event the amounts owed remain unpaid for three months after the due date, the nonpaying participant and/or subscriber's MLS services shall automatically terminate regardless if notice of such termination is given.

17.2 Disputed Amounts. If a participant and/or subscriber disputes the accuracy of amount owed, the participant and/or subscriber may request a hearing before the Board of Directors. In order to request such a hearing, the participant and/or subscriber must first pay the disputed amount in whole which may be refunded in whole or part in accordance with the Board of Directors' determination. Hearings under this section shall be conducted in accordance with the *California Code of Ethics and Arbitration Manual*. In the event the Board of Directors confirms the accuracy of the amount owed, the participant and/or subscriber shall also be subject to paying interest at the rate of ten (10%) per annum on such past due amounts.

17.3 Reinstatement. Any participant and/or subscriber whose MLS services have been terminated for nonpayment of MLS fees may reapply for participation in the MLS. However, prior to being granted access, such participant and/or subscriber must pay all fees applicable to new applicants and all past due amounts owed, including paying interest at the rate of ten (10%) per annum on such past due amounts.

The following provision has not been formally adopted by the C.A.R. Board of Directors, but if Article XVII, Section 1 of the C.A.R. Model Bylaws is not adopted, include the following Section:

18. CHANGES IN RULES AND REGULATIONS

The rules and regulations of the MLS may be amended by a two-thirds vote of all members of the MLS Committee, subject to approval by the Board of Directors. Any changes to these rules and regulations which are mandated by the National Association of REALTORS® shall automatically be incorporated into these rules and regulations and do not require MLS Committee or Board of Directors approval.