

# ***Summary of Changes To MetroList Rules***

**(Effective May 10, 2011)**

## **[Page 19] – Modifications to 7.25.2**

### **7.25.2 Auction Listings**

- e. Seller auction instructions shall be attached to the listing describing the auction sales process for the benefit of cooperating brokers **and** shall include at a minimum the following:

## **[Page 32] – Modifications to 13.6**

**13.6 Listing Broker's Permission.** No MLS Participant or Subscriber may enter a property with or without a Keybox without the **seller or** listing broker's permission. Such permission may be granted by the listing broker specifying permission to use the Keybox through the MLS. **A Participant or Subscriber must be present on the property at all times when providing access to listed property unless the seller or listing broker has consented otherwise.** Appraiser Participants and Appraiser Subscribers are expressly prohibited from using Keybox Keys to enter a property without either the owner's or listing broker's permission.

MetroList Services, Inc.

# Multiple Listing Service

## MLS Rules

*Effective Date*

**\*\* May 10, 2011 \*\***

***MetroList***<sup>®</sup>

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**MetroList Services, Inc.**

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# MULTIPLE LISTING SERVICE RULES

## METROLIST SERVICES, INC.

Effective May 9, 2011

### 1. METROLIST MULTIPLE LISTING SERVICE

MetroList Services, Inc. (hereinafter also referred to as "MetroList") is a computer-based Information service which provides a Multiple Listing Service (herein referred to as "MLS" or "Service") to its Participants and Subscribers pursuant to these MLS Rules as from time-to-time amended by MetroList.

MetroList provides offices geographically located for the convenience of its Participants and Subscribers.

### 2. DEFINITION OF METROLIST'S MLS

MetroList operates a Multiple Listing Service ("MLS"). An MLS is a facility for cooperation of licensed real estate agents and licensed/certified appraisers, operating through an intermediary, MetroList, which does not itself act as an agent or appraiser, by which real estate agents, pursuant to the Rules of MetroList ("MLS Rules"), establish express or implied legal relationships with respect to listed properties, for the orderly accumulation, correlation and dissemination of listing information among Participants and Subscribers, and which may be used by agents and appraisers to prepare market evaluations and appraisals of real property.

### 3. MULTIPLE LISTING SERVICE COMMITTEE

**3.1 Authority.** The MLS Committee ("Committee") shall serve as an advisory body to the MetroList Board of Directors on matters relating to the MLS and these MLS Rules. All actions of the MLS Committee shall be subject to the approval of the MetroList Board of Directors.

**3.2 Appointment of Committee.** The President of MetroList shall annually designate not more than thirty (30) individuals to serve on the MetroList MLS Committee subject to approval of the MetroList Board of Directors. The MetroList MLS Committee shall elect by simple majority vote at its first meeting of the calendar year a Chairperson and an alternate Chairperson.

**3.3 Vacancies.** Vacancies in unexpired terms shall be filled as in the case of original appointees.

**3.4 Attendance.** Any committee member who fails to attend three (3) regular or special meetings of the Committee shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

**3.5 Quorum.** A majority of the members of the Committee shall constitute a quorum. A majority of those present at a meeting shall be required for action unless it is a matter involving a recommendation for an amendment of the MLS Rules in which case a majority vote of the total number of committee members shall be required.

**3.6 Meetings.** The MLS Committee shall meet for the transaction of the business at a time and place to be determined by the Committee or at the call of the Chairperson.

#### **4. PARTICIPATION AND AUTHORIZED ACCESS**

**4.1 Participant.** A Participant is any individual who applies and is accepted by MetroList, meets and who 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 whom 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 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 the MetroList MLS Orientation Program.

**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 appraiser's certification or license;
- b. the individual is a principal, partner, corporate officer, or branch office manager acting on behalf of an individual or entity whose primary business is to perform market evaluations, appraisals and/or written opinions of value in connection with the marketing of real property or loans to be secured by real property;
- c. the individual has signed a written agreement to abide by the Rules of the Service in force at that time and as from time to time amended;
- d. the individual pays all applicable fees;
- e. the individual has completed the MetroList MLS Orientation Program.

**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 real estate subscriber ("R.E. Subscriber") or an Appraiser Subscriber as defined in section 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 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 the MetroList Orientation Program.

**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 appraiser's 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 of the Service in force at that time and as from time to time amended;
- d. the individual has completed the MetroList MLS Orientation Program.

**4.3 Clerical Users.** Clerical Users are individuals (whether licensed or unlicensed) employed by an MLS Participant or Subscriber and registered with the MLS who perform only clerical tasks that do not require a real estate license or an appraiser's certificate or license. Each Participant and/or his/her Subscriber(s) shall provide the MLS with a list of and a registration form for all Clerical Users employed by Participant and/or the Participant's Subscriber(s) and shall immediately notify the MLS of any changes, additions or deletions from the list.

**4.4 Notification of Licensees.** Each Participant shall provide MetroList with a list of and an application form for all real estate licensees employed by or affiliated as independent contractors with Broker Participant or certified or licensed appraisers employed by Appraiser Participant and shall immediately notify MetroList of any changes, additions, or deletions from the list.

**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, MetroList shall allow a firm to designate a different person as a Participant within the firm without additional initial participation fees. MetroList 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 §1086 who acts in cooperation with a listing broker to accept the offer of compensation to find or obtain a buyer or lessee. The cooperating broker or selling broker shall be the agent of the buyer. 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 employed by the Appraiser Participant. Whenever these Rules refer to the Appraiser, the term shall also include the Appraiser Subscriber or a licensed or certified appraiser employed by 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.** Participants and Subscribers shall pay to MetroList the service fees and charges set forth in Addendum A attached hereto, which MetroList may from time to time adjust ("Addendum A"). Clerical Users may be assessed registration fees, access fees and other fees as set forth in Addendum A. The Participant or Subscriber for the Clerical User shall be responsible for all such fees.

**5.1.1 Initial Application Fee:** An applicant for participation as a Participant or Subscriber in the MLS shall pay an initial application fee as set forth in Addendum A.

**5.1.2 Registration Fee:** An individual applying as a Clerical User shall pay an initial registration fee as set forth in Addendum A.

**5.1.3 Monthly Participation Fee:** Participants, Subscribers and Clerical Users who have access to and use of the MLS shall pay a participation/access fee as set forth in Addendum A.

**5.1.3.1** MetroList shall charge each Participant and Subscriber a monthly Participation Fee as set forth in Addendum A, and other fees as determined by MetroList to be due and payable, including but not limited to System Use and Key Lease Fees for the Keybox System, Clerical User Access Fees and Sales Tax. Fees shall be billed by MetroList three (3) months in advance, and shall be due and payable within (30) days after the beginning of each three (3) month billing period. Failure to pay all fees due within said thirty (30) days shall result in immediate suspension of all MLS Services, including the use of Keybox System if Participant or Subscriber is a Keyholder, and MetroList will so advise Participant or Subscriber and/or its contractors.

**5.1.3.2** Participant and Subscriber shall have the option of paying the Monthly MLS Participation Fee as set forth in Addendum A, and other fees as determined by MetroList to be due and payable, including Keybox System Use and Key Lease Fee, other Keybox System Fees, and Sales Tax, automatically on a monthly basis by preauthorized charge to credit card accepted by MetroList. Participants and Subscribers selecting this option shall provide MetroList with written authorization for the preauthorized charge and shall not receive printed invoices.

**5.1.3.3** A Participant, Subscriber or Clerical User whose MLS Services have been suspended may pay a reinstatement fee(s) as set forth in Addendum A, and in the MetroList Keybox System Use and Key Lease Agreement if Participant or Subscriber is a Keyholder, within thirty (30) days of suspension in addition to all monies due and payable as billed. Failure to reinstate within thirty (30) days of suspension or within a total of sixty (60) days from the beginning of each billing period shall result in the immediate termination of all MLS services, including use of the Keybox System if Participant or Subscriber is a Keyholder, and MetroList shall so advise Participant, Subscriber or Clerical User and/or its contractors.

**5.1.3.4** Each billing period, Participant, when returning his/her invoice with his/her payment, shall certify to MetroList the number of licensees, whether or not they are R.E. Subscribers or Appraiser Subscribers (collectively termed "licensees") and Clerical users in Participant's office and agrees that MetroList shall have the right to suspend or terminate all access to MLS by Participant/or Subscriber, including the Keybox System if Participant or Subscriber is a Keyholder, and Clerical User, if said Participant incorrectly certifies the number and/or names of all licensees and/or Clerical Users in his/her office. Neither Participant nor Subscriber shall be entitled to a refund of MLS Fees for any period when access to MLS Services is suspended by MetroList for non-payment of MLS Fees by either Participant or Subscriber.

**5.1.4 Loading Fee.** A Broker Participant shall pay a loading fee as set forth in Addendum A for each listing submitted to MetroList by said Broker Participant or any R.E. Subscriber on behalf of said Broker Participant for loading into the computer system. No fee shall be charged for listings broker-loaded by the Participant or Subscriber.

**5.1.5 Return Check Fee(s)/Collection Fee(s).** Participants and Subscribers shall pay to MetroList returned check(s) and/or collection fee(s) as set forth in Addendum A.

**5.1.6 Certification of Nonuse.** A real estate licensee or a licensed or certified appraiser may be relieved from payment under section 5.1.3 by having his/her Participant certify in writing to the MLS that as a licensed or certified person in the office he/she is engaged solely in activities that do not require a real estate license, appraiser's license or certification, or that he/she will not use the MLS or MLS data or Keybox System in any way. In the event a real estate licensee or appraiser is found in violation of the nonuse certification, or Participant fails to disclose that a licensed or certified person is working under Participant's license, Participant shall be subject to all MLS fees dating back to the date of the certification or date of association. The Participant and the individual 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, access to the Service and/or the Keybox System.

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

## **6. REGIONAL AND RECIPROCAL AGREEMENTS.**

MetroList's Board of Directors may approve and enter into reciprocal or regional agreements with other MLSs to allow the other MLSs' 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' data bases or using their Keybox Systems.

## **7. LISTING PROCEDURES**

**7.1 Listing Subject to Rules of the Service.** Any listing filed with the Service is subject to these rules.

**7.2 Type 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 § 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 MLS shall have the right to reject or remove any such listing that it determines falsely represents the classification of listing type.

**7.2.1 Service Level; Limited Service 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 sellers 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."L" placed in the Service Level Field) 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 Service Level; Restricted Service Listing.** Restricted Service 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 Restricted Service Listings will be identified with an appropriate code or symbol (e.g. "R" placed in the Service Level Field) 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 Service Level: None of the Above.** Are all listings except for those categorized under MLS Rule 7.2.1 or 7.2.2.

Said None of the Above Listings will be identified with an appropriate code or symbol (e.g. "E" placed in the Service Level Field) 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.

**7.2.4 Service Level; Legal Obligations.** The Service Level 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:

- Residential/Common Interest
- Mobile Home in Park
- Residential Income
- Residential/Commercial Land
- Business Opportunity
- Commercial/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 determination as to the classification as to the classification of the property type and if the listing broker does not reclassify it accordingly, the MLS 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 Types of Active Status.** Active listings are listings in which the seller is ready, willing and able to accept an offer at the list price, or within the variable price range, on terms otherwise acceptable to the seller. Auction listings, as defined in these MLS Rules, may also be shown as active listings.

**ACTIVE (A)**

**ACTIVE** requiring Short Sale Lender Approval of offers (AS)

**ACTIVE** requiring Court Approval of offers (AC)

**ACTIVE** with Release Clause (AR)

**ACTIVE** with submitted offer pending Short Sale Lender Approval (ASC)

**ACTIVE** with submitted offer pending Court Approval (ACC)

**7.4.1** All listings qualifying as short sales shall be so identified. A short sale is defined as a listing which, if sold at list price, would not generate sufficient revenue to satisfy all existing liens and expenses of sale without the lender agreeing to accept less than the full amount of the lien. A listing need not be identified as a short sale if the seller will deposit the funds necessary to close escrow without lender approval.

**7.4.2** All listings that require court approval of offers received shall so indicate.

**7.4.3** All listings on which an offer has been accepted that has a specific contingency for release of the accepted offer within a specified period of time after receipt of another acceptable offer shall so indicate.

**7.4.4** All listings on which an offer has been accepted by the seller and has been submitted to the lender for approval shall so indicate. Once lender approval has been obtained the status must be changed to PS as further defined in Section 10, Reporting Sales and Other Information to Service.

**7.4.5** All listings on which an offer has been accepted by the seller and is awaiting court approval shall so indicate. Once court approval has been obtained the status must be changed to PS as further defined in Section 10, Reporting Sales and Other Information to Service.

**7.5 Compliance with California and Federal Law.** Notwithstanding any other Provisions of these MLS Rules to the contrary, the Service shall accept any listing that it is required to accept under California or federal law.

**7.6 Mandatory Submission.** Broker Participants and R.E. Subscribers shall input exclusive right to sell or exclusive agency listings on Residential/Common Interest, Mobile Home in Park, Residential Income and Residential/Commercial Land located within the service area of the MLS within three (3) business days of the commencement date of the listing or three (3) business days of receipt of all necessary signatures of the seller(s) on the listing, whichever comes later. Failure to submit a listing or MLS waiver form within three (3) business days of the commencement date of listing or receipt of seller(s) signature, whichever occurs later, shall result in an automatic fine as set forth in Addendum B. Failure to include the specific date when the MLS waiver expires shall result in an automatic fine as set forth in Addendum B. MLS waivers submitted to MLS must be complete in all respects as described in Addendum D. Incomplete

waivers are not valid waivers as required by these Rules. For listings delivered to a MetroList Office for input, there shall be a loading fee charged as set forth in Addendum A. 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 § 7.8) are not required by the Service, but may be input at the Broker Participant's option.

All listings must be input and maintained in accordance with these Rules. As per section 15.3, Addendum B lists the schedule of fines for certain MLS Rules violations pertaining to the input and maintenance of a listing, and Addendum C outlines procedures whereby the Participant or Subscriber receiving the citation pertaining to the input and maintenance of a listing may either pay the amount specified on the citation or request a full hearing in accordance with the procedures set forth in Section 16 of these Rules. Failure to provide all necessary documentation to re-enter a listing as "new" when requested shall result in an automatic fine as set forth in Addendum B.

**7.6.1 Waivers.** Failure to submit a listing or MLS waiver form within three (3) business days of the commencement date of listing or receipt of seller(s) signature, whichever occurs later, shall result in an automatic fine as set forth in Addendum B. Failure to include the specific date when the MLS waiver expires shall result in an automatic fine as set forth in Addendum B. MLS waivers submitted to MLS must be complete in all respects as described in Addendum D. Incomplete waivers are not valid waivers as required by these Rules. When a listing is on Waiver and is then entered into the MLS, Days on Market (DOM) will accrue from the original listing date. Listings sold during the waiver period may not be submitted to the service as a comparable sale.

**7.6.2 On Market Date (OMD).** Listings that will not be marketed until a future date shall be entered with a future OMD. By entering the listing into the MLS with a future OMD only the listing office administration may view the listing. Days on Market (DOM) will NOT accrue prior to the OMD Date. There shall be no marketing of any listing prior to the OMD. Marketing of a listing prior to the expiration of the OMD shall subject the Participant and Subscriber to citations as set forth in Addendum B.

**7.7 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.

**7.8 Service Area.** The MLS shall serve the counties of Sacramento, San Joaquin, Stanislaus, Yolo, El Dorado and Placer except for the Lake Tahoe Basin, the eastern portion of Merced County, and others as approved by the MetroList Board of Directors from time-to-time. At the option of the MLS, the Service may adopt a policy to accept listings of properties located outside its service area. If MetroList has entered into regional MLS agreements or a regional MLS entity with other MLSs, and has enlarged the service area as part of the agreement, submission of the type of listings specified in section 7.6 is mandatory for the enlarged service areas covered by the combined service areas of the signatories to the regional MLS agreement or the MLS comprising the regional entity

**7.9 Change of List Information.** List brokers shall input any change in listing information, including the list price or list price range or other change in the original listing agreement in the MLS within three (3) business days 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.

**7.10 Withdrawal of Listing Prior to Expiration.** Listing 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. Withdrawal of a listing means that the listing agreement is cancelled. Temporarily off market means that the listing contract is still valid.

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

**7.11.1 Prerequisites for Submission of Offers.** A listing broker may not establish any prerequisite to the submission of offers to the seller unless such prerequisite is established by the seller. No Participant or Subscriber shall establish any prerequisite for submission of an offer to a seller unless the exact terms of the prerequisite are specifically set forth in a writing signed by the seller and attached to the Broker Participant's listing on the MLS. Listing Broker may remove or strikeout any information, from attached document, NOT required to comply with this Rule.

**7.12 Detail on Listings Filed With the Service.** All listings input into the MLS shall be complete in every detail including full gross list price or list price range, listing expiration date, compensation offered to other Broker Participants and any other information required to be included as stated in these Rules. Listings, which are incomplete, shall be ineligible for publication in the MLS and subject to immediate removal.

All data entered in the required fields on the property profile sheet must be accurate and meaningful, and the Participant and Subscriber shall be subject to citations as set forth in Addendum B for failure to do so. Participants and Subscribers may not include any information other than the address in the address line.

Inclusion of any other information than the address in the address line shall subject the Participant and Subscriber to citations as set forth in Addendum B.

All listings must be entered in the correct area, and the Participant and Subscriber shall be subject to citations as set forth in Addendum B for failure to do so.

There shall be no marketing of any listing prior to the On Market Date – OMD. Marketing of a listing prior to the expiration of the OMD shall subject the Participant and Subscriber to citations as set forth in Addendum B. All listings with a Variable Price Range shall so indicate by placing the maximum value in the List Price field and the minimum value in the Variable Price Range field.

**7.13 Unilateral Contractual Offer.** 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. Provided, however, that in the event the gross commission established in the listing contract is subject to court approval or to lender approval in the event of a short sale, the compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court or by a lender. In such instances, the fact that the gross commission is subject to court or to lender approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they produce an offer that ultimately results in a successful transaction. A Broker Participant must specify some compensation to be paid 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.

**7.14 Acceptance of Contractual Offer.** The Broker Participant's contractual offer is accepted by the Participant/cooperating broker by his/her procuring a buyer which ultimately results in the creation of a sales or lease contract. If a broker other than the listing broker and/or selling broker should claim to be the procuring cause, such broker may request an arbitration hearing. If all parties are members of an Association of REALTORS® within the Service Area (Section 7.8), the arbitration shall be conducted by, and at the location of, the Association in the N.A.R. jurisdiction of which the property, or **either** property if any exchange is involved, is located. If any of the parties are not members of an Association of REALTORS®, or if the Association refuses to conduct the arbitration, the arbitration shall be conducted by the American Arbitration Association, the Judicial Arbitration and Mediation Service or another Arbitration or Mediation Service. 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 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.

**7.15 Consent to Act as Dual Agent.** By offering compensation 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.

**7.16 Estate Sale, Probate, Bankruptcy and Lender Approval Listings.**

**7.16.1 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 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 Court 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 estate, probate or bankruptcy sale.

**7.16.2(a) Lender Approval Listing.** 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 in the confidential agent remarks on MLS the following: (a) the fact that the sale is subject to lender approval, and (b) the amount or method by which any lender **reduction** in the gross commission shall be apportioned between listing and cooperating brokers. (Example of acceptable comments: Sale subject to lender approval. Any lender required **reduction** in gross commission shall be shared between listing broker \_\_\_% and the selling broker \_\_\_%. Any provision that would modify compensation other than an apportionment of the lender required reduction shall be invalid and compensation to cooperating brokers shall be the amount stated in the commission field at the time the offer was submitted.

**7.16.2(b) Timeline for Notification of Lender Reduction.** The listing broker shall provide written documentation of any lender required reduction in the gross compensation within three business days of receipt from the lender, but in no case less

than one business day in advance of the actual date of the close of escrow, along with proof of the original gross compensation and the amount by which the compensation payable to the cooperating broker will be reduced. If the listing broker fails to notify the cooperating broker or does not provide the required documentation, the compensation to the cooperating broker shall be the amount stated in the commission field at the time the offer was submitted.

**7.16.2(c)** A Broker Participant shall not enter a listing into the MLS which is a short sale where (1) the gross commission is one to which the Broker Participant does not have good faith belief the short sale lender will agree, and (2) the listing provides for an allocation between the listing and cooperating brokers of a reduction in the gross commission if required by a short sale lender.

If a Broker Participant enters a listing which is a short sale with a gross commission to which the Broker Participant does not have a good faith belief the lender will agree, any provision in the listing providing for allocation between the listing and cooperating brokers of a reduction in the gross commission if required by a lender shall be ineffective, and the compensation to cooperating brokers shall be the amount stated in the commission field at the time the offer was submitted.

**7.17 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 MLS merely publishes the compensation offered through the MLS. The listing broker may revoke or modify the offer of compensation in advance as to an 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.

**7.18 Broker Participant or R.E. Subscriber as Principal.** If a listing broker or salesperson has any interest in a listed property, the listing of which is to be disseminated through the Service, that person shall disclose that interest on the property profile sheet and on the MLS when the listing is filed with the Service.

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

**7.20 Expiration, Extension, and Renewal of Listings.** Listings shall be removed from the MLS data base on the listing's expiration date specified on the property profile sheet and on the MLS unless the listing is extended or renewed by the listing broker and notice of renewal or extension is input to the MLS prior to the listing's expiration date. 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 not be

treated as a new listing. 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 one (1) business day of the request, the listing shall be subject to immediate removal from the MLS.

## **7.21 Listings of Participants Suspended, Expelled or Resigned.**

**7.21.1 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 service to such Participant and/or Subscriber, including continued inclusion of listings in 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 with the MLS. Subscriber shall have access to MLS only through his/her Participant.

**7.21.2 Violation of MLS Rules.** When a Participant or Subscriber is suspended or expelled from the Service for a violation of the MLS Rules, the MLS shall cease to provide services to such Participant and/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 listing's expiration date specified on the property profile sheet and on the MLS in effect when the expulsion or suspension become effective. In the event the 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. Subscriber shall have access to MLS only through his/her Participant.

**7.22 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 non-participants.

**7.23 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:

- a. One in which the seller agrees to pay a specified commission if the property is sold by the listing broker without assistance and a different commission if the sale results through the efforts of a cooperating broker; or
- b. One in which the seller agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale results through the efforts of a seller.

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.

**7.24 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. 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.

**7.25 Details on Listings with Special Sales Conditions.** All listings input into the MLS which have one or more of the following special sale conditions shall so indicate as described below.

**7.25.1 HUD Listings**

- a. All HUD listings shall so indicate as stated in these MLS Rules.
- b. The HUD Field shall be marked "Yes."
- c. The Type Listing Field shall be completed as "Open."
- d. The Commission Field shall reflect the maximum amount of compensation HUD is authorizing to the cooperating broker.
- e. HUD Instructions shall be attached to the listing describing the HUD sales process for the benefit of cooperating brokers.

**7.25.2 Auction Listings**

- a. All auction listings shall so indicate as stated in these MLS Rules.
- b. An 'auction listing' shall mean a listing in which the list price may not represent the price that the seller is willing to accept even if an offer at the price submitted to the seller satisfies all other terms of the listing, **and**, if the listed property is not sold by date certain, the property will be offered for sale by the seller at an auction pursuant to a bidding procedure specified by the seller. Auction listings that are not in a pending or off market status shall be removed by the date certain **or** the expiration date, whichever is earlier.
- c. The Auction Field shall be marked "Yes."
- d. If the listing is an "Open" listing, the Commission Field shall reflect the amount of compensation the listing broker intends to pay separately to the cooperating broker.
- e. Seller auction instructions shall be attached to the listing describing the auction sales process for the benefit of cooperating brokers and shall include at a minimum the following:
  - i. The date, time and place of auction;
  - ii. Whether the auction is being conducted with or without the seller's right of reservation;
  - iii. All required procedures for Participants/Subscribers to register their representation of a potential bidder;
  - iv. The compensation to be paid to the Participant representing the successful bidder at the auction; and

- v. Any other material rules or procedures for the auction.
- f. If the listing is an "Open" listing the expiration date shall be entered as the date that is one calendar day prior to the auction date.

## **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(s) 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 during the time the listing remains in the MLS; (3) abide by the Rules of the Service; (4) provide timely notice of status changes of the listing to the Service; (5) provide information including selling price to the Service upon sale of the property for publication and dissemination to those authorized by the MLS and (6) authorize the Service to publish the 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 inputting 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 submitting 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 two (2) business days, 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.** By inputting information into the MLS computer data base, the listing broker represents that the information on the property profile sheet and input has been furnished by seller or other sources, has not been verified by the listing broker or MetroList, and all interested persons should independently verify the accuracy of such information. The listing broker 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, damages 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 held liable to any MLS Participant, Subscriber or any other person 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 for inputting the listing to the MLS.

**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 or its contractors, whether such information was provided to the MLS staff or its contractors on a "property profile sheet" or otherwise.

**8.5 Buyer, Seller, Purchase and Sale defined.** All references to the buyer shall also include lessee/tenant. All references to the seller shall also include lessor/landlord. All references to a purchase shall also include a lease/rental. All references to a sale shall also include a lease/rental agreement.

**8.6 Removal of Contact Information and/or Agent Only Remarks.** The listing broker and/or agent with written permission from the Seller may remove contact information, including name(s) and telephone number(s), and Agent Only Remarks from the listed property when the listed property is either Withdrawn or Expired as defined in these Rules without being in violation of these Rules.

## **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 not 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 and Subscribers through the MLS.
- c. the provisions of (a) and (b) above shall not relieve the listing broker of his/her agency relationship to the seller(s).

In the event all showings and negotiations are conducted solely by the seller, the listing broker shall clearly set forth such fact in the listing information published by the Service. Negotiations by the listing broker with the prospective buyer to be conducted through the buyer's broker, unless conditions exist similar to (a) and (b) above.

**9.2 Presentation of Offers.** The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker, in writing if requested, 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.** Except as provided in this Rule 9.4, the cooperating broker has the right to be physically present at the presentation to the seller of any offer to purchase the seller's listed property which the cooperating broker procures. The cooperating broker does not have the right to be present, however, at any discussion or evaluation of that offer between or by the seller and the listing broker. A seller may give a written instruction to the listing broker requesting that the cooperating broker not be present when an offer the cooperating broker procured is presented, and, in such case, the cooperating broker shall convey the offer to the listing broker for presentation. Any instruction by the seller that the cooperating broker not be present at the presentation of offers shall not be effective, however, unless contained in a writing signed by the seller and attached to the Broker Participant's listing on the MLS. Nothing in this section is intended to diminish or restrict the listing

broker's right to control the establishment of appointments for other presentations. The foregoing shall also apply with respect to the presentation of a counter offer and/or addendum.”

**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 or Salesperson as a Purchaser.** If a cooperating broker or salesperson 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**

**10.1.1** Final sales shall be defined as recorded transfers of title of property. Final sales with the correct cooperating broker information and the correct sales information shall be entered into the MLS by the listing broker within three (3) business days of the final closing date. Failure to do so will result in an automatic fine as set forth in Addendum B.

**10.1.2** Listings with accepted offers shall be input to the MLS data base as “pending” within three (3) business days 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 that the listing is “pending”, and send a copy of the listing's changed status to the listing broker within three (3) business days after acceptance. The Listing shall be published on the MLS as pending with no sales price or terms prior to the final closing date. Failure to properly report a pending sale will result in an automatic fine as set forth in Addendum B.

**10.1.3** Pending sales must be reported in the correct category. Appropriate categories are PS, PSB, ACC, ASC and AR.

- |                 |            |  |
|-----------------|------------|--|
| <b>10.1.3.1</b> | <b>PS</b>  | Offer accepted – no additional offers being sought.  |
| <b>10.1.3.2</b> | <b>PSB</b> | Offer accepted – additional offers being sought.   |
| <b>10.1.3.3</b> | <b>ACC</b> | Offer accepted subject to court approval. Upon approval of the court or if additional offers are not being sought the Status shall be changed to PS.   |
| <b>10.1.3.4</b> | <b>ASC</b> | Short sale offer accepted by seller only – additional offers being sought pending lender approval. If the listing was not a short sale when listed but has become a short sale because of the amount of the accepted offer the Listing Broker shall so indicate by using the ASC Status. <b>Upon approval of the lender or if additional offers are not being sought the Status shall be changed to PS as noted in MLS Rule 10.1.3.1 or PSB as noted in MLS Rule 10.1.3.2.</b> |

- 10.1.3.5**      **AR**      Offer accepted with a release clause of a specified period activated upon the receipt of another accepted offer – additional offers being sought.
- 10.1.3.6**      If the listing has been entered into more than one property type, at the time a pending sale is reported for one of the listings the second listing shall be reported as a Duplicate – Withdrawn listing.
- 10.1.3.7**      Participants and Subscribers shall be subject to citations as set forth in Addendum B for failure to enter and maintain the correct status.

**10.2 Reporting Cancellation of Pending Sale.** The listing broker shall report the cancellation of any pending sale to the Service within three (3) business days, and the listing shall be reinstated as active as long as there is still a valid listing agreement. If the listing agreement is no longer valid the listing must then be classified as an expired listing and the status must be changed to reflect this expired status regardless of whether it is an expired listing or a final sale. Failure to report the change of status of an expired pending sale within three (3) business days will result in a fine as set forth in Addendum B.

**10.3 Refusal to Sell.** If the seller of any listed property filed with the Service does not accept a written offer satisfying all the terms and conditions stated in the listing as filed with the Service, such fact shall be transmitted by the listing broker to the Service and to all Participants and Subscribers within three (3) business days. Violation of this rule shall be subject to citations as set forth in Addendum B.

**10.3.1 All Listings.** When an offer higher than the list price has been received, but no offer has been accepted, the listing broker must increase the list price to at least the amount of the offered price less financial concessions **OR** must disclose such information to all Participants and Subscribers in the Confidential Agent Remarks.

**10.3.2 Variable Price listings.** When an offer on a variable price listing is within the price range as specified in the MLS and has been received but no offer has been accepted, the listing broker must increase the minimum price to at least the amount offered less financial concessions **OR** must disclose such information to all Participants and Subscribers in the Confidential Agent Remarks.

**10.4 Termination of Agency.** If the agency relationship between the seller and the listing broker is terminated for any reason, the listing must be withdrawn from the MLS.

**10.5 Duty to Provide Information.** It shall be the duty of the Participant and/or Subscriber to cooperate with the Service, MLS Committee, and the Board of Directors in providing any information necessary for compliance with these Rules.

## **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 data base, and all MLS publications.

**11.2 Active Listings MLS Compilation Defined.** “Active Listing MLS Compilation” shall mean that portion of the MLS Compilation which includes listings currently for sale and all 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, including SOLD information regarding properties that are not currently for sale and all information related to the sold information Compilation.

**11.4 Authority to Put Listings in MLS Compilation.** By submitting any property profile sheet 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 MetroList to include the property listing data in its copyright MLS Compilation and for MetroList to license such information for use by third parties. By inputting any listing to the MLS, Participants and Subscribers represent that they have been authorized to report information about the list price, list price range, terms of a listing, and its sale price in the event it sells, have authority to grant and also thereby do grant authority for MetroList to include the sold information in its copyrighted MLS Compilation.

**11.5 Photographs and Attachments on the MLS.** By submitting photographs and attachments to the MLS, Participants and Subscribers represent that they have the authority to grant and also thereby do grant to MetroList, the MLS and its Participants and Subscribers the right to reproduced and display the photographs and attachments consistent with the Rules. Participants and Subscribers also grant to MetroList the right to license third parties to reproduce and display the photographs and attachments. Photos entered into the MLS must be of the property or be taken from the property or common facility.

**11.6 Copyright Ownership.** All right, title, and interest in the MLS Compilation and each copy of every MLS Compilation created by MetroList (whether copyrighted by MetroList or not), and in the copyrights therein, shall at all times remain vested in and the property of MetroList. MetroList shall have the right to license the MLS Compilation or portions thereof to any person or entity pursuant to terms and conditions acceptable to MetroList in its sole discretion.

**11.7 Licensing of MLS Compilations.** Each Participant and Subscriber is licensed 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 by whom they are employed. Clerical Users may not provide any MLS Compilation or information to persons other than the Participant or the Subscriber by whom the Clerical User is employed.

## **12. PROHIBITIONS, REQUIREMENTS AND LIMITS OF LIABILITY**

**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 Participant or the Participant’s firm 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 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, 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 or regulations relating to appraisers.

### **12.3 Supervision of Licensees and Appraisers.**

**12.3.1** 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.

**12.3.2** In addition to the notification requirements of paragraph 12.1, a Participant may not allow any Appraiser employed by the Participant whose appraiser's certificate or license has been revoked, suspended or restricted by the OREA to use the MLS in any manner while the OREA discipline is in effect except that the Appraiser may use the MLS under a restricted license or certificate providing such use is consistent with and does not violate such license or certificate restrictions.

**12.4 Solicitation of Listing Filed With the MLS.** 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 or communication, prior to the expiration of the listing by Participants or Subscribers seeking the listing upon expiration, and to encourage brokers to participate in the Service by assuring them that other Participants or 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.

A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club or organization or other classification or group shall not constitute a violation of this section 12.4.

The following two basic types of solicitations are considered a violation of this section 12.4:

- a. telephone or personal solicitation of property owners who have been identified by a real estate sign, MLS Compilation, or other information service as having exclusively listed their property with another MLS Participant; and
- b. mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another MLS Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information required by these Rules to be made available to other MLS Participants under offers of cooperation.

**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 loaded directly into the MLS data base 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 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”.

**12.8 Advertising of Listing Filed With the MLS.**

**12.8.1** A listing shall not be advertised by any Participant or Subscriber, other than the listing broker, without the prior consent of the listing broker.

**12.8.2** Because of the fiduciary relationship which exists between a listing broker and his/her client with respect to a listing, the cooperating agent is not vested with any power, authority or rights beyond those authorized by the listing broker regarding said listing. Therefore, except for their own listings, Participants and Subscribers will neither advertise nor prepare lists of active listings for publication on flyers, on the Internet, or in newsletters for unsolicited distribution unless permission is granted by the listing broker. This restriction is applicable only to information gathered from the MLS.

**12.9 Limitations on Use of MetroList and/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 MetroList’s “statistical reports,” or from any “sold” or “comparable” report of MetroList information for public mass media advertising by a Broker Participation or R.E. Subscriber or in other public representation 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 MetroList Services, Inc. for the period (date) through (date).”

**12.10 False or Misleading Advertising and Representations.** Participants and Subscriber 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, Participants and Subscribers are expressly prohibited from using MLS information for any purpose other than to market property or to support market evaluations, opinions or appraisals as specifically allowed by Sections 12.14, 12.15, and 12.16. Nothing herein shall limit MetroList from entering into licensing agreements with third parties for use of the MLS information. Unless expressly authorized pursuant to a written license agreement with MetroList, these Rules do not permit the use of MLS information to support market evaluations, appraisals or written opinions of value by Appraiser Participants, Appraiser Subscribers, or others in connection with any governmental agency’s determination or evaluation of the value of real property for the assessment of real property taxes or assessments or for any other purposes not expressly authorized herein.

**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 Participant and Subscriber for purposes described in Sections 2, 12.7, 12.11, 12.14, 12.15 and 12.16 and this Section. Participants and Subscribers shall at all times maintain control over and responsibility for each copy of any MLS Compilation licensed to them by MetroList, and shall not distribute any such copies to persons other than Participants and Subscribers except as allowed in Sections 12.14 through 12.14.5. 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 by whom they are registered. Access by Clerical Users to the database is solely for clerical and administrative functions for the Participant or Subscriber by whom the Clerical User is registered.

**12.13 Display.** As used in these Rules the word "Display" means a "visual representation of data". Displays of the MLS Compilation which include confidential information shall be only in the immediate presence of the MLS Participant or Subscriber, and Participant and Subscriber shall at all times maintain custody and control of the MLS Compilation displayed. Broker Participant and R.E. Subscribers shall be permitted to display the MLS Compilation in either electronic or printed format to specifically identified 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 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.

**12.13.1 Clerical Users.** Clerical Users are expressly prohibited from displaying MLS information to anyone other than the Participant or Subscribers licensed to or associated with Participant.

**12.14 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 shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

**12.14.1 Copies to Prospective Purchasers.** Broker Participants and R.E. Subscribers may reproduce from the MLS Compilation, and distribute to prospective purchasers, hard copies of those portions of the MLS Compilation consisting only of a description of the property, including the address, features, financing and list price or list price range.

**12.14.1.1 Clerical Users.** Clerical Users are expressly prohibited from reproducing and distributing MLS information to anyone other than the Participants or Subscribers licensed to or associated with Participant.

**12.14.2 Information Reproduced.** The listing broker and agent shall not include the following information in Property Description, Directions, Attached Documents, or other areas not intended for such information, and other Participants and Subscribers shall not reproduce the following information unless prior written consent is obtained from the listing broker/agent.

- a. property owner name and/or occupants name, phone number, email address and address (if different than the listed property);

- b. showing instructions including any references to a Keybox, burglar alarm or any security system, or to the vacancy of the property;
- c. type of listing;
- d. compensation or bonuses offered to cooperating brokers;
- e. the name, except for broker code, of the listing office/broker; office agent information; phone numbers; office of model homes;
- f. website addresses;
- g. Other information which goes beyond a description of the property except for buyer incentives offered by the seller.

**12.14.3 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 opinion of value on a particular property.

**12.14.4 Downloading into Computers.** Participants and Subscribers may download MLS information into a computer system as long as:

- a. access to the computer or computer system receiving the information is strictly limited to the Participant, his/her Subscribers and their 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 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 who downloaded the data and such use strictly complies with sections 12.7, 12.11, 12.15 and 12.16.

**12.14.5 Comparable Information.** Individual Participants and Subscribers in possession of current listing information, "sold" information, "comparables" or statistical information may utilize such information to support an appraisal or opinion of value on a particular property for a particular client. However, only such information that MetroList has deemed to be non-confidential and necessary to support the appraisal or opinion of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited except as otherwise specifically provided for in these Rules, or the IDX Guidelines.

**12.15 Timeliness of Reproduced MLS information, Disclaimer and Copyright, Prohibition against Modification and Indemnification.**

**12.15.1** All reproductions of MLS information shall prominently include a statement as to the date and time the MLS information reproduced was obtained from MLS.

**12.15.2** "All measurements and all calculations of area are approximate. Information provided by Seller/Other sources, not verified by Broker. All interested persons should independently verify accuracy of information. Provided properties may or may not be listed by the office/agent presenting the information."

**12.15.3** All reproductions of MLS information on the Internet shall be updated with current information not less than once every three (3) days.

**12.15.4** Under no circumstance shall a Participant or Subscriber make any changes whether intentional or otherwise to MLS information reproduced by Participant or Subscriber under the provisions of Section 12.14.

**12.15.5** Should Participant or Subscriber change either intentionally or otherwise the MLS information reproduced, Participant and Subscriber agree to indemnify and hold harmless MetroList, the listing broker, the listing agent and the seller from and against any and all losses, costs, liabilities, damages, taxes, interest, penalties and/or expenses, including, without limitation, legal fees and other expenses incurred by MetroList, the listing broker, the listing agent and the seller in their investigation or defense of claims and actions resulting from or arising out of Participant and or Subscriber's reproduction of the MLS information.

## **12.16 Display of Listing Information on the Internet**

- a. The listing broker's consent for Display of listing information 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 a blanket or a listing-by-listing basis. Listing brokers that refuse to permit other Broker Participants or R.E. Subscribers to Display their listing information on a blanket basis may not Display other brokers' listing information. Any listing broker who denies Display of fifty percent (50%) or more of his/her listings shall be deemed to have refused to permit Display on a blanket basis.
- b. The Display of MLS listing information by Broker Participants and R.E. Subscribers on or at their public websites shall comply at all times with the IDX Guidelines (as defined in these Rules). Broker Participants and R.E. Subscribers may not Display MLS information downloaded pursuant to Rule 12.14.4 unless the Broker Participant or R.E. Subscriber has entered into a written license agreement with the MLS in form and content acceptable to the MLS.
- c. Broker Participants and R.E. Subscribers shall not reproduce confidential information fields, as determined by the MLS in the MLS's sole discretion, such as that information intended for cooperating brokers rather than consumers.
- d. All Internet Displays of listings shall identify the name of the listing firm in a manner designed to easily identify such listing firm for each and every Display of the listing.
- e. Broker Participants and R.E. Subscribers shall not modify the information Displayed pursuant to these Rules, and all Displays shall be consistent with Paragraph 12.15 of these Rules.
- f. There shall be no limit to the number of listings that an IDX User may view, retrieve or download.
- g. Sharing of the MLS Compilation with any third party not authorized by MetroList is prohibited. Broker Participants and R.E. 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.
- h. The authorized Display of MLS listing information on a public Internet site shall include a requirement that every person who intends to view or use such MLS information agrees to

Terms of Use that include, in addition to such other terms as the Broker Participant or R.E. Subscriber deems appropriate, substantially the following terms and conditions:

### **Terms of Use**

1. The following are terms of a legal agreement between you, the person viewing and/or using this Internet site ("User") and the operator ("Provider") of this Internet site ("Site"), By accessing, browsing and/or using this Site, User acknowledges that User has read, understood, and agrees to be bound by these terms and to comply with all applicable laws and regulations, including but not limited to U.S. export and re-export control laws and regulations. If User does not agree to these terms, User is not authorized to use this Site. The material provided on this Site is protected by law, including, but not limited to, United States Copyright law and international treaties.

2. User must be a prospective purchaser or seller of real estate with a bona fide interest in the purchase or sale of such real estate.

3. All real estate data provided on this Site (including but not limited to descriptions, images, and other information constituting or relating to real estate listings) is strictly for the personal, private, non-commercial use of User and is not made available for redistribution, retransmission, reformatting, modification or copying. User may not sell or use any of the real estate data on this Site for any purpose other than attempting to evaluate houses or properties for sale or purchase by User. User acknowledges that the real estate data on this Site is provided by MetroList Services, Inc., a California corporation ("MetroList"), and User acknowledges the validity of MetroList's copyright as to such data. User expressly acknowledges and agrees that MetroList is a third-party beneficiary of these Terms of Use, and that MetroList will be entitled to enforce these Terms of Use against User.

4. To the fullest extent permitted by law, the data on this Site is provided "as is," without warranty or representation of any kind, either express or implied, as to the nature, quality, characteristics or value of any property or information to which the data pertains. NEITHER PROVIDER NOR METROLIST MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE DATA DISPLAYED ON THIS SITE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR AS TO THE TIMELINESS, ACCURACY AND/OR COMPLETENESS OF THE DATA.

5. NEITHER PROVIDER NOR METROLIST SHALL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS INFORMATION, LOSS OF DATA, LOST PROFITS, LOSS OF CUSTOMERS OR OTHER PECUNIARY LOSS), ARISING OUT OF THE USE OR INABILITY TO USE THE DATA DISPLAYED ON THIS SITE, WHETHER THE CLAIM OR CAUSE OF ACTION ARISES IN TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR UNDER ANY OTHER LEGAL THEORY.

6. User agrees that the prevailing party or parties in any action brought to enforce or for breach of these Terms of Use shall be entitled to recover, in addition to any other relief, that party's or those parties' reasonable attorney's fees and court costs incurred in such action from the non-prevailing party or parties.

**12.17 Listing Broker's Right to Opt Out of Internet Advertising of MLS**

**Information.** If MetroList advertises MLS information on the Internet or licenses MLS information for advertising on the Internet, the listing broker shall have the right to opt out of such advertising in accordance with the MLS's procedure 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's procedures.

**12.18 Applicability of Rules to MLS or MetroList.** These Rules are binding on the MLS Participants and Subscribers. Nothing in these Rules shall limit the right of MetroList 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.

**12.19 Assignment of Unique User Name and Password.** Participants, Subscribers, Clerical Users and others as approved by MetroList ("Authorized Users") are assigned unique user names ("Agent ID") and passwords ("Password") by MetroList for use when accessing the MetroList MLS Computer System at the time their application for participation in or access to the MetroList MLS is accepted, as provided for in these Rules or as otherwise provided for by MetroList. Only Authorized Users are permitted to use the MLS and/or access the MetroList MLS Computer System. An Authorized User may not, under any circumstances except as may be expressly authorized in writing by MetroList, disclose his or her MetroList Password to any other person or entity, including but not limited to entering, storing, or otherwise providing such MetroList Password to any vendor or other party purporting to provide any product or service related to the MetroList MLS or the Authorized User's use of the MLS Compilation, whether such action is taken on the Authorized User's own computer or not.

**12.20 Unauthorized Use of MLS or Access to MLS Computer System.** An Authorized User who permits another person not authorized by MetroList to use the MetroList MLS or who provides a MetroList Agent ID, Password and/or Authentication Technology to any person not authorized by MetroList shall pay an automatic fine of \$100 and be subject to other disciplinary action up to and including termination of MLS services. Unauthorized access to and/or use of computers, computer systems or computer data, including misuse of an Agent ID, Password and/or Authentication Technology assigned by MetroList, is a crime under California Penal Code Section 502.

**12.21 Limitation of Liability.**

**12.21.1** All access to the System furnished or permitted under these MLS Rules is furnished without warranty of any kind, either express or implied, and all such warranties, including without limitation the implied warranties of merchantability and fitness for a particular purpose, are hereby disclaimed.

**12.21.2** MetroList and/or its Contractors will not be responsible for the interruption of, interference with, lessening of or suspension of any of the services or access to the System or to information to be provided hereunder if caused by strikes, lockouts, riots, epidemics, war, government regulation, fire, flood, natural disasters, Acts of God or material shortages, failures, malfunctions or inadequacies of equipment or software provided by MetroList or any other party during any transition or upgrade from one computer system to another computer system or upgrade of a computer system.

**12.21.3** In no event will MetroList and/or its Contractors be liable to Participants, Subscribers and /or Clerical Users or to any other person for any indirect, special or consequential damages, including without limitation, any loss of profits or loss of revenues arising out of or in connection with the use or performance of the System operation or other services furnished by MetroList and/or its Contractors.

### 13. KEYBOX SYSTEM

**13.1 Eligibility to Lease ActiveKeys/eKeys (“Keys”).** An MLS Participant or Subscriber may lease a Key from MetroList, for the lease fee set forth in the appropriate Agreement described herein below, if he/she otherwise qualifies under this section. Participants and Subscribers who lease a Key are referred to as “Keyholders”. Clerical Users are not eligible to lease Keys. An MLS Participant and Subscriber shall be eligible to lease a Key provided that the Participant or Subscriber:

- a. signs either the MetroList Keybox System Use and Key Lease Agreement or the Keyholder Lease Agreement for Supra Keybox System (the “Agreement”);
- b. continues to comply with the Agreement and all MLS Rules relating to Keys; and
- c. remains eligible for MLS services; and
- d. does not extend his/her Key lease privileges to any other person, including his/her Clerical User(s), under any circumstance.

**13.2 Eligibility to Purchase Keyboxes (“Keyboxes”).** Broker Participants and R.E. Subscribers shall be eligible to purchase Keyboxes. Appraiser Participants, Appraiser Subscribers, Clerical Users and Tradespersons are not eligible to purchase Keyboxes.

**13.3 Accountability.** A Keyholder must account for his/her Key at the time of any inventory conducted by MetroList or at any time requested by SUPRA Products, Inc., or MetroList.

**13.4 Deemed Unaccounted For.** Keys shall be deemed unaccounted for if a Keyholder refuses or is unable to demonstrate that the Key is within the Keyholder’s physical control.

**13.5 Written Authority and Keybox Liability Disclaimer.** Broker Participants and R.E. Subscribers may place a Keybox only on a Property listed with the Service and with the written authority from the seller. Appraiser Participants and Appraiser Subscribers may not place a Keybox on any property. The following statement shall be included by the listing broker in all listing agreements; “**LOCKBOX**”; A LOCKBOX is designed to hold a key to the Property to permit access to the Property by Broker, cooperating brokers, MLS Participants, their authorized licensees and representatives (“lockbox users”), and accompanied prospective buyers. Broker, cooperating brokers, MLS and Association /Boards of REALTORS® are **not** insurers against theft, loss, vandalism, or damage attributed to the use of a LOCKBOX. Seller is advised to verify the existence of, or obtain, appropriate insurance through Seller’s own insurance broker. If Seller does not occupy the Property, Seller shall be responsible for obtaining occupant(s)’ written permission for use of a LOCKBOX. Seller authorizes Broker to install a LOCKBOX; (initial) YES  NO

**13.6 Listing Broker’s Permission.** No MLS Participant or Subscriber may enter a property with or without a Keybox without the seller or listing broker’s permission. Such permission may be granted by the listing broker specifying permission to use the Keybox through the MLS. A Participant or Subscriber must be present on the property at all times when providing access to listed property unless the seller or listing broker has consented otherwise. Appraiser Participants and Appraiser Subscribers are expressly prohibited from using Lockbox Keys to enter a property without either the owner’s or listing broker’s permission.

**13.7 Unaccounted For Keys.** A Keyholder shall immediately report a lost, stolen or otherwise unaccounted for Key to MetroList.

**13.8 Unauthorized Use of Key.** A Keyholder shall perform and comply with all of the terms and conditions of the Agreement. The breach or failure to perform any of the terms and conditions of such Agreement by a Keyholder shall constitute a violation of these MLS Rules and may result in discipline as provided in Sections 15 and 16 of these Rules, up to and including the loss of and/or restriction on all Keybox System privileges.

**13.9 Failure to Notify MetroList of Any Change of Participation Status.** A Keyholder who fails to notify MetroList of any change in his/her MLS Participation status within five (5) business days of such change shall immediately cause Keyholder's use of the Keybox System to be suspended/terminated as determined by MetroList.

**13.10 Rules Violation.** Failure to abide by the MLS Rules, including the rules relating to the Keybox System as set forth in this section and in the Agreement, may result in discipline as provided in these Rules, in addition to loss of or restriction on all Keybox System privileges. Notwithstanding any other provision of these MLS Rules, MetroList may immediately and without notice suspend a Keyholder's Keybox System privileges if, in MetroList's good faith determination, the Keyholder has committed a material violation of the Agreement or Section 13 of these MLS Rules. Any such suspension may, in MetroList's sole discretion, remain in effect until a decision is rendered following an MLS Rules violation hearing pursuant to Sections 15 and 16 of these MLS Rules, or until Keyholder pays a fine as determined by the President of MetroList which shall be commensurate with the seriousness of the rules violation.

**13.11 Right to Limit Access.**

**13.11.1** MetroList reserves the right to refuse to issue a Key or limit access to Keyboxes if, in its sole discretion, it determines the security of the system would be compromised by issuing such Keys or granting access to Keyboxes.

**13.11.2** MetroList may refuse to sell or lease a Key, may terminate existing Key lease agreements, and may refuse to activate or reactivate any Key held by an individual convicted of a felony or misdemeanor if the crime, in the determination of MetroList, relates to the real estate business or puts clients, customers or other real estate professionals at risk.

**13.11.3** MetroList may suspend the right of Participants and Subscribers to use Keys following their arrest and prior to their conviction for any felony or misdemeanor, which, in the determination of MetroList, relates to the real estate business or which puts clients, customers or other real estate professionals at risk. Factors that can be considered in making such 13.11.3 determinations include, but are not limited to:

- a. the nature and seriousness of the crime;
- b. the relationship of the crime to the purposes for limiting Keybox access;
- c. the extent to which access (or continued access) might afford opportunities to engage in similar criminal activity;
- d. the extent and nature of past criminal activity;
- e. time since criminal activity was engaged in;
- f. evidence of rehabilitation while incarcerated or following release; and

- g. evidence of present fitness.

**13.12 Exclusive Provider and Exclusive Use.** MetroList shall be the exclusive provider of the Keybox System. Participants and Subscribers shall limit their use of any multiple-listing access Keybox or entry card system in the geographical area served by the MetroList MLS, to the MetroList Keybox System. All properties listed with the MetroList MLS that use a Keybox for access to the listing by Participants and Subscribers shall so indicate in the MLS listing information. There shall be an automatic fine as set forth in Addendum B for indicating that the listing has a Keybox if the Keybox is not a MetroList iBox.

#### **14. INTERNET DATA EXCHANGE IDX DEFINITION AND GUIDELINES**

**14.1 Internet Data Exchange Defined.** "Internet Data Exchange" or "IDX" means a method by which Broker Participants are authorized by MetroList pursuant to written license agreements to display certain real estate listing information contained within the MLS Compilation, as determined by MetroList in its sole discretion, on such Broker Participants' Internet websites. An R.E. Subscriber may, with the consent of the Broker Participant with which the R.E. Subscriber is employed or is affiliated as an independent contractor pursuant to MLS Rule 4.2.1, establish and operate an IDX website. Broker Participant permission is presumed for IDX websites provided to R.E. Subscribers by MetroList. Broker Participants shall provide oversight and supervision of IDX websites built and maintained for their R.E. Subscribers by MetroList or other vendors and shall be accountable for compliance of such websites with MLS Rules, policies, procedures and guidelines.

**14.2 IDX Guidelines.** An IDX website shall comply with the MLS Rules and any published guidelines for IDX websites that are adopted by MetroList from time to time. An IDX website shall also require that consumers using the IDX website must agree to comply with any applicable terms of use that are specified by MetroList from time to time for the viewing and/or use of displayed MLS Content.

#### **15. VIOLATIONS OF MLS RULES**

**15.1 Grounds for Disciplinary Action and Sanctions.** After a hearing by a tribunal as provided in Section 16 of these Rules, MetroList's Board of Directors may take disciplinary action and impose sanctions against any MLS 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 California Real Estate Appraisers Licensing and Certification Law or a regulation of the California Office of Real Estate Appraisers.
- c. For any violation of subsection (a) by a Subscriber, the Participant by whom the Subscriber is employed, with whom the Subscriber is affiliated, as shown as the broker or Appraiser by the records of MetroList. Lack of knowledge by the Participant of such Subscriber's conduct shall only go to mitigation of discipline imposed.

- d. For any violation of subsection (a) by a Clerical User who is employed by a Participant or Subscriber. Lack of knowledge by the Participant or Subscriber of such Clerical User's conduct shall only go to mitigation of discipline imposed.

**15.2 Sanctions.** Sanctions or disciplinary action for violation of an MLS Rule may consist of one or more of those specified in the Procedures for MLS Rules Violations Hearings as may be adopted and amended by MetroList and in effect from time to time.

**15.3 Citations.** The MetroList Board of Directors may implement a schedule of fines for certain MLS Rules violations and MetroList may 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 Section 16 of these Rules.

## **16. PROCEDURES FOR MLS RULES VIOLATION HEARINGS**

All MLS Rules violation hearings shall be processed in accordance with the Procedures for MLS Rules Violation Hearings as from time to time amended which is hereby incorporated by reference. Failure to abide by the procedures shall be a violation of these MLS Rules. If a Participant or Subscriber requests a hearing or if the matter is referred to a hearing because the Participant or Subscriber does not respond appropriately the Hearing Panel may impose any sanction allowable under these rules and the MLS Tribunal Procedures.

## 17. CHANGES IN MLS RULES

The Rules of the MLS may be amended at any time by MetroList. MetroList shall provide notice of changes in MLS Rules to Participants, Subscribers and Clerical Users by sending general electronic mail over its computer system. In addition, notice with respect to changes to Paragraph 5, MLS FEES AND CHARGES, will be included with the invoice reflecting such revised MLS fees and charges.

### **Adopted by MetroList**

April 1, 1995  
Tom Beede, President

### **Amended by MetroList**

March 27, 1996	December 1, 1998
August 28, 1996	May 1, 1999
November 20, 1996	April 29, 2000
January 29, 1997	July 26, 2000
February 26, 1997	February 28, 2001
April 23, 1997	May 1, 2002
May 28, 1997	February 26, 2003
July 30, 1997	January 21, 2004
September 24, 1997	February 19, 2004
April 29, 1998	February 25, 2004
August 25, 2004	October 27, 2004
November 16, 2005	March 1, 2006
March 28, 2006	September 27, 2006
April 25, 2007	January 23, 2008
March 26, 2008	April 30, 2008
March 25, 2009	June 24, 2009
January 27, 2010	May 26, 2010
June 30, 2010	August 25, 2010
September 1, 2010	January 19, 2011
February 23, 2011	March 30, 2011

Tom Beede, President

**Addendum A  
Schedule of Fees**

Section 5.1.1	Initial Application Fee	\$200.00 for Participants and Subscribers (effective 1/1/06)
Section 5.1.2	Initial Registration Fee	\$30.00 for Clerical Users
Section 5.1.3	Participation Fee Access Fee	\$35.00/month for Participants & Subscribers \$20.00/month for Clerical Users
Section 5.1.3.4	Reinstatement Fee	\$20.00
Section 5.1.4	Listing Input Fee	\$50.00
Section 5.1.5	Returned Check Fee Collection Fee	\$25.00 per check The amount incurred by the agency to collect the indebtedness
Section 6	Reciprocal Listing Input Fee	\$100.00

**Addendum B**  
**Schedule of Fines for Certain MLS Rules Violations**

There shall be an automatic fine of \$100 for the following MLS Rule Violation and a Citation Notification Letter (Attachment B to Addendum C) shall so notify Participant or Subscriber.

- Section 7.6 Failure to submit a listing or an MLS waiver form within three (3) business days of the commencement date of listing or receipt of seller(s) signature, whichever occurs later.
- Section 7.6 Failure to include the specific date when the MLS waiver expires.
- Section 8.2 Failure to provide written documentation to the service within two (2) business days.
- Section 10.1.1 Failure to properly report a Final Sale within three (3) business days.
- Section 10.1.2 Failure to properly report a Pending Sale within three (3) business days.
- Section 10.1.3 Failure to properly report a Duplicate Withdrawn within three (3) business days.
- Section 12.20 An Authorized User who permits another person not authorized by MetroList to use the MetroList MLS or who provides a MetroList Agent ID, Password and/or Authentication Technology to a person not authorized by MetroList.

There shall be an automatic fine of \$250 for the following MLS Rule Violation and a Citation Notification Letter (Attachment B to Addendum C) shall so notify Participant or Subscriber.

- Section 7.6 Failure to provide all necessary documentation to re-enter a listing as “new” or “to extend the expiration date” (XD).
- Section 7.12 Marketing of a property prior to the On Market Date.

There shall be a fine of \$100 for the following MLS Rules’ Violations if the Participant or Subscriber fails to correct the violation within two (2) business days from receipt of the Citation Notification Letter (Attachment A to Addendum C):

- Section 8.1 Failure to enter and maintain the correct Status.
- Sections 7.10 through 7.12 Failure to enter the following information accurately or removing said information improperly:
 

Address	Selling Broker Code
List Price	Variable Price Range
Sale Price	Selling Agent Name
Type Listing	List Date
Selling Date	Variable-Dual Rate Commission
Pending Date	Commission
Homeowners/Association Dues	
City	Expiration Date
Sale Financing	Correct Area
All Required Fields	On Market Date
Information Other Than Address in Address Line	

- Section 7.9 Failure to report change in data describing a listing including List Price and List Price Range within three (3) business days of the change.
- Section 7.10 Changing listing status to "Withdrawn" (W)
- Section 7.11.1 Prerequisites for Submission of Offers.
- Section 7.13 Unilateral Contractual Offer of Compensation.
- Section 10.2 Failure to report the closed escrow of an expired pending (XP).
- Section 10.2 Failure to notify the Service that a pending sale or an expired pending is no longer pending and that the status should be changed to (X).
- Section 10.3 Refusal to Sell.
- Section 12.14.2 Placing confidential information in any area not intended for public use.

There shall be an automatic fine as set forth in the schedule below for the following MLS Rule Violation and a Citation Notification Letter (Attachment B to Addendum C) shall so notify Participant or Subscriber.

- Section 13.12 Exclusive Provider and Exclusive Use  
 First Offense - \$100 Plus purchase of an iBox and register to listing.  
 Second Offense - \$250 Plus purchase of an iBox and register to listing.  
 Third Offense - \$500 Plus purchase of an iBox and register to listing and mandatory MLS Tribunal Hearing.
- Section 13 KeyBox System - Maximum fine for each violation shall not exceed \$15000.

## **Addendum C**

### **Procedures Whereby the Participant or Subscriber Receiving a Citation May Either Pay the Amount Specified on the Citation Letter or Request a Full Hearing Accordance With Section 16 of These MLS Rules**

When a Participant, Subscriber or Clerical User becomes aware of a possible violation of an MLS Rule listed in Addendum B, which may result in a fine, the Participant or Subscriber should notify MetroList. Notification may be by phone or in writing.

When MetroList becomes aware of a possible violation of an MLS Rule listed in Addendum B, MetroList shall notify the Participant or Subscriber using the appropriate MLS Citation Letter (Attachments A and B to Addendum C). The Participant or Subscriber shall have two (2) business days from receipt of the citation letter to correct the violation, except for violations of Sections 7.6, 8.2, 10.1.1, 10.1.2, 10.1.3, 12.20, 12.22 and 13.12 which shall result in an automatic fine as set forth in Addendum B. Failure to correct violations of other Sections of the MLS Rules, as set forth in Addendum B will cause Participant or Subscriber to be fined \$100.00 for each cited Rules violation.

Repeat violations will be dealt with through the formal complaint process as per Section 16 of these MLS Rules.

Maximum fine for any MLS Rule violation shall not exceed \$15000.

**Attachment A to Addendum C  
MLS Citation Letter A**

Date  
Name  
Address  
City/State/Zip

Dear:

As a service, we would like to notify you that your listing has been reported to be in violation of the following Section(s) of the MLS Rules:

- \_\_\_\_\_ Section 8.1 Failure to enter and maintain the correct Status.
- \_\_\_\_\_ Section 7.9 Failure to report change in data describing a list including list price and list price range within three (3) business days of the change.
- \_\_\_\_\_ Section 7.10, 7.12 and 8.3 Failure to enter the following information accurately or removing said information improperly  
Address                      Selling Broker Code              Sale Financing  
List Price                      Variable Price Range              Correct Area  
Sale Price                      Selling Agent Name              All Required Fields  
Type Listing                      List Date                      Expiration Date  
Selling Date                      Pending Date                      H.O./Assoc. Dues  
Commission                      Variable-Dual Rate              City      On Market Date
- \_\_\_\_\_ Section 7.10 Changing listing status to "Withdrawn" (W)
- \_\_\_\_\_ Section 7.11.1 Violation of Prerequisites for Submission of Offer.
- \_\_\_\_\_ Section 7.13 Violation of Unilateral Contractual Offer of Compensation.
- \_\_\_\_\_ Section 10.2 Failure to report the closed escrow of an expired pending (XP).
- \_\_\_\_\_ Section 10.2 Failure to notify the Service that a pending sale or an expired pending is no longer pending and that the status should be changed to expired (X).
- \_\_\_\_\_ Section 10.3 Refusal to Sell.
- \_\_\_\_\_ Section 12.14.2 Placing confidential information in any area not intended for public use.

In accordance with Section 15.3 and Addendum B of the MLS Rules, you have two (2) business days after the date of this letter to make the necessary corrections or present your verification and/or reasons that you have not violated the Section(s) cited. Should you elect not to make the necessary corrections, you will be fined \$100 for each cited section.

**Listing Broker is responsible for the accuracy and timeliness in reporting of MLS Data to The Service. This Citation Letter/Fine does not alleviate responsibility for the Listing Broker to report accurate information mandated in the MLS Rules. Failure to comply may result in additional discipline including, but not limited to, additional fines.**

If you have any questions regarding this notice, please call \_\_\_\_\_.

Sincerely,  
Name and Title

**Attachment B to Addendum C  
MLS Citation Letter B**

Date:

Name  
Address  
City/State/Zip

Dear:

You have been fined for each violation of the MLS Rules listed below:

- \_\_\_\_\_ Section 7.6 Failure to submit a listing or an MLS waiver form within three (3) business days of the commencement date of listing or receipt of seller(s) signature, whichever occurred later
- \_\_\_\_\_ Section 7.6 Failure to include the specific date when the MLS waiver expires
- \_\_\_\_\_ Section 7.6 Failure to provide all necessary documentation to re-enter a listing as "new" or "to extend the expiration date" (XD)
- \_\_\_\_\_ Section 10.1.1 Failure to report a Final Sale within three (3) business days
- \_\_\_\_\_ Section 10.1.2 Failure to report a Pending Sale within three (3) business days
- \_\_\_\_\_ Section 10.1.3 Failure to properly report a Duplicate Withdrawn within three (3) business days
- \_\_\_\_\_ Section 12.20 Permitting an unauthorized person to use the MetroList MLS or providing a MetroList Agent ID, Password and/or Authentication Technology to an unauthorized person
- \_\_\_\_\_ Section 13.12 Exclusive Provider and Exclusive Use
- \_\_\_\_\_ Section 7.12 Marketing of a property prior to the On Market Date.

If you have any evidence which would show that you have not violated the MLS Rules, you have two (2) business days to present such evidence to MetroList.

**The Listing Broker is responsible for the accuracy and timeliness in reporting of MLS Data to the Service. This Citation Letter/Fine does not alleviate responsibility for the Listing Broker to report accurate information mandated in the MLS Rules. Failure to comply may result in additional discipline including, but not limited to, additional fines.**

If you have any questions regarding this notice, please call \_\_\_\_\_.

Sincerely,  
Name  
Title

**Addendum D**  
**MLS Waiver Requirements**

All waivers as required by MLS Rule 7.6 shall include the following information:

Name of the Listing Agent  
Agent ID  
Name of the Listing Broker  
Name of the Real Estate Company  
Office ID  
Address of the Property  
Expiration Date of the Waiver  
Seller's Signature  
Date of Seller's Signature  
Listing Broker's Signature/Authorized Representative's Signature

***MetroList***<sup>®</sup>

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**Unleash The Power!**

**MetroList Services, Inc.**  
**1164 West National Drive, Suite 60**  
**Sacramento, CA 95834**  
**(916) 922-2234**  
Outside the 916 area code, call  
**(888) 898-9788**