

ACTRIS Rules & Regulations

Introduction

Forms of Service Provided

Definitions

Coverage Area

Definition of Terms

Purpose

Intended Use of MLS

Part I – Residential Brokerage

Article I

Listing Procedures

- 1.1 Types of Listing Agreements Accepted
- 1.2 Services Provided
- 1.3 Submission Deadline
- 1.4 Protection of Property Owner, Public and Listing Agent
- 1.5 Listing Price
- 1.6 Listing in More Than One Property Type
- 1.7 Complete & Accurate Property Information
- 1.8 Deadline to Make Changes to Listed Data
- 1.9 Broker's Request to Withdraw Listing
- 1.10 Seller's Request to Withdraw Listing
- 1.11 Selling Partial Property
- 1.12 ACTRIS Position on Fees for Services
- 1.13 Expiration of Listing
- 1.14 Termination of a Listing
- 1.15 Termination of Services for Suspended/Resigned Members
- 1.16 Presenting Offers
- 1.17 Timely Presentation of Offers
- 1.18 Presenting Offers Up to Closing
- 1.19 Cooperating Agent's Rights
- 1.20 Rights of Listing Participant or Subscriber
- 1.21 Keyboxes
- 1.22 Availability of Listed Properties
- 1.23 Digital Image Requirement

Article II

Selling Procedures

- 2.1 Negotiations Between Seller & Listing Agent
- 2.2 Presenting Offers
- 2.3 Presenting Offers Up to Closing
- 2.4 Cooperating Agent's Rights
- 2.5 Reporting Pending Contracts Deadline
- 2.6 Reporting Contingencies Deadline
- 2.7 Reporting Cancellation of Pending Sale
- 2.8 Advertisement by Someone Other than Listing Agent
- 2.9 Rights of Listing Participant or Subscriber
- 2.10 Listings Must Be Available to Show

Article III

3.1

Refusal to Sell

Refusal to Accept Offer

Article IV

4.1

4.2

4.3

4.4

4.5

4.6

4.7

Prohibitions

Availability of MLS Info to Nonmembers

Disclosure of Listing Data to Nonmembers

For Sale Sign on Property

Sold Sign on Property

Soliciting Prior to Listing Expiration

Incomplete or Incorrect Listings

Appraiser Access

Article V

5.1

5.2

5.3

5.4

5.5

5.6

5.7

5.8

5.9

5.10

5.11

Compensation

Obligation to Compensate or Arbitrate

Compensation Offered

Short Sale Disclosure

Forms of Compensation

Gross Compensation & Court Orders

Other Offers of Compensation

Dual or Variable Commission Arrangements

Compensation Adjustments

Receipt of Compensation

Disclosure of Ownership Interest by a Member

Acquiring Interest in Listed Property

Article VI

6.1

6.2

6.3

6.4

Fees and Charges

Start Up Fees Determined by ACTRIS Directors

MLS Fees, Billing Notices and Reinstatement Fees

MLS Fees & Charges Determined by ACTRIS or ABoR

Notifications & Termination Services

Article VII

7.1

Compliance with Rules/Authority to Impose Discipline

Agreement to Rules & Regulations and Terms & Conditions

Article VIII

8.1

8.2

8.3

Enforcement of Rules

Consideration of Complaints by ACTRIS Board of Directors

MLS Violations and Sanctions

ACTRIS Board of Directors Referral of Unethical Conduct

Article IX

9.1

9.2

9.3

9.4

Confidentiality of ACTRIS Information

Confidentiality of MLS Data

Protection of Confidential or Restricted Fields

Use of Statistical Information for Prospective Clients

Use of Property Records for use with Prospective Clients

- 9.5 Use of MLS Data for Mass Distribution
- 9.6 Authorized Assistant Access to MLS

Article X

10.1

Amendments

Power of ACTRIS Board to Amend or Repeal Rules & Regs

Article XI

11.1

11.2

Ownership

Right of ACTRIS to Copyright Listings

ACTRIS Ownership of MLS Compilations

Article XII

12.1

12.2

12.3

12.4

12.5

12.6

12.7

12.8

12.9

12.10

12.11

12.12

12.13

12.14

12.15

12.16

12.17

12.18

12.19

12.20

12.21

12.22

12.23

12.24

12.25

12.26

Use of Copyrighted ACTRIS Compilations

Member Use & Control of MLS Compilations

Virtual Office Website (VOW), Affiliated VOW Partner (AVP)

Participant's Right to Display on VOW

VOW Set Up & Compliance

Participant's Contact Info

Participant's Security Obligation

Withholding Property Address from Display

Third Party Comments/Market Value

Means to Contact Participant & Make Corrections

Refreshment/Updating Requirement

Distribution/Access

Privacy Disclaimer

Exclusion of Listings

Intent to Operate VOW

Operating More than 1 VOW

IDX – Display on Other Participant's Websites

Participant Responsibilities

Search Exclusions

Altering MLS Listing Information

Display of Contact Info

Time Period Disclaimer

Distribution of MLS Compilation

Participant's Own Compilation

Exclusive Use of Participant

Estimates (CMA)

Personal & Confidential Reference

Article XIII

13.1

13.2

13.3

13.4

13.5

ACTRIS Fines, Residential Brokerage

Imposition of Fines

Unauthorized Use

MLS Access by a Non-Subscriber

Violation of MLS, Tools or Compilation

Violation of Terms and Conditions of Use

(1) Unauthorized Use of Keypad

- (2) Keeping PIN Code on Keypad or SafeMLS Token
 - (3) Unauthorized Use of MLS Tools
 - (4) Licensed, Non-ACTRIS Member Name in MLS Listing
 - (5) Non Compliance of IDX or Vow Policy
- 13.6 Database Violations
- (1) Late Submissions
 - (2) Late Reporting of Pending Status
 - (3) Late Reporting of Sold/Leased Status
 - (4) Pending Over 4 Months
 - (5) Incorrect or Incomplete Information
 - (6) Incorrect Sold Info
- 13.7 Fail to Correct Above
- 13.8 Immediate Fines
- (1) Computer Class Violations
 - (2) Security Codes in Listings
 - (3) Incorrect Address
 - (4) Failure to Comply with Photo Policy
 - (5) Directions
 - (6) Double Listing
 - (7) Improper Use of Listing
 - (8) Unauthorized Listing for IDX
 - (9) Improper Use Sold/Leased Data
 - (10) Failure to Report Sold/Leased Data
 - (11) Disparaging Remarks in Listing
 - (12) Entering Incorrect Sold/Leased Agent
- 13.9 Warning Letters
- (1) Incorrect Parcel ID
 - (2) Improper Use of Term "MLS"
- 13.10 Continual Infringements
- (1) Unauthorized Use
 - (2) Database Violations
 - (3) Immediate Fines

Article XIV

Orientation

Introduction

Part II – Leasing Management Services

Intended Use of LMS

Article I

Applicability of MLS Rules & Reg to Leasing



AUSTIN BOARD
of REALTORS®

AUSTIN/CENTRAL TEXAS REALTY
INFORMATION SERVICE

RULES AND REGULATIONS

INTRODUCTION

The Austin/Central Texas Realty Information Service (ACTRIS), hereinafter referred to as “ACTRIS” shall provide the following forms of service: A brokerage multiple listing service (MLS); and, a residential leasing multiple listing service, leasing management service (LMS) to support leasing/management activities; all operating under the name of ACTRIS.

The rules and regulations applicable to each of above mentioned services shall appear as separate parts of this document. The parts shall be entitled ACTRIS and Leasing Management Service. These rules and regulations are incorporated in the Applicant Agreement and form a binding legal agreement between ACTRIS and Participant or ACTRIS and Subscriber, as applicable.

DEFINITIONS

Capitalized terms not defined herein shall have the meaning required by law in the context in which the term is used, or if no specific meaning is required by law, the meaning given in the Application Agreement, or if not provided therein, the meaning given in the published guidelines of the National Association of REALTORS®, and if not provided therein, the meaning as used in the real estate sales industry.

- A. “Appraiser” shall mean an appraiser certified or licensed by the Texas Appraiser Licensing and Certification Board; including an Authorized Assistant who is a Provisional Licensed Real Estate Appraiser or an Approved Appraiser Trainee (each, as defined by the Texas Appraiser Licensing and Certification Board) that has an office (or is employed by or is a contractor to an office) that is open to public for the conduct of the appraisal business.
- B. “Authorized Assistant” shall mean a person (a) who does not hold an active real estate license, (b) who is designated by a REALTOR® Participant in writing as authorized to access the MLS solely in order to provide services to the REALTOR® Participant, and (c) who has agreed in writing to maintain the confidentiality of the MLS.
- C. “Board” shall mean the Austin Board of REALTORS®.
- D. “Charges” shall have the meaning given in Article VI, Section 6.3.
- E. “Central Texas” shall mean Bastrop, Bell, Blanco, Burnet, Caldwell, Comal, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Milam, Travis and Williamson counties in the State of Texas.
- F. “Designated Property Type” means, with respect to the MLS, residential, multi-family, farms/ranch/acreage, lots, commercial sale, commercial lease, unique and with respect to the LMS, lease.
- G. “Dual or Variable Rate Commission Arrangement” shall have the meaning given in Article V, Section 5.7.

- H. “Exclusive Agency Listing” shall mean a contractual agreement under which the listing Participant acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing Participant if the property is sold through the efforts of any Participant. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing Participant.
- I. “Exclusive Right to Sell” shall mean a contractual agreement under which the listing Participant acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing Participant, regardless of whether the property is sold through the efforts of the listing Participant, the seller(s) or anyone else; and a contractual agreement under which the listing Participant acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing Participant regardless of whether the property is sold through the efforts of the listing Participant, the seller(s), or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing Participant.
- J. “Failure to Pay” shall have the meaning given in Article VI, Section 6.4.
- K. “Firm Start-Up Fee” shall have the meaning given in Article VI, Section 6.1.
- L. “Late /Reinstatement Fee” shall have the meaning given in Article VI, Section 6.2.
- M. “Listing Content” shall mean details or information related to listed property, including, but not be limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.
- N. “LMS Compilation” means the proprietary database compilation of information regarding the lease of real estate developed, compiled and organized by ACTRIS.
- O. “MLS Compilation” means the proprietary compilation of content regarding the sale of real estate that is developed, compiled and organized by ACTRIS. The MLS Compilation may include Listing Content and photos relating to the Designated Property Types.
- P. “Open Listing” means a contractual agreement under which the listing Participant acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing Participant only if the property is sold through the efforts of the listing Participant.
- Q. “Participants” means a licensed real estate broker, or Appraiser (a) who is a member of the Austin Board of REALTORS® (Board) (b) who has applied for designated REALTOR® status and whose Applicant Agreement has been accepted by ACTRIS and (c) who has an office or is employed by or is a contractor to an office that is open to the public for the conduct of the real estate business.

- R. “REALTOR®” means a Subscriber or a Participant who is affiliated with the National Association of REALTORS®.
- S. “Subscriber” means (a) a person who is licensed by the State of Texas to sell or lease real property and who is employed by or under contract with a Participant; (b) a Participant with a valid license from the State of Texas to sell real estate that is on file with another Participant, or (c) an Appraiser who is working for another Appraiser that is a Participant or for an entity affiliated with another Appraiser that is a Participant. Subscriber must be a member of the National Association of REALTORS®, a member of the Board or any other board of REALTORS®, and employed by or a contractor to an office that is open to the public for the conduct of the real estate business.

PURPOSE

The MLS is intended solely for use by Participants, Subscribers and Authorized Assistants in connection with the sale, lease and valuation of real property. Rules governing the use of the MLS in connection with the sale or valuation of real property are outlined in Part 1 hereof, and the rules governing the use of the LMS in connection with the lease of real property are outlined in Part 2 hereof. Use of the MLS or LMS is conditioned on agreement and compliance with these Rules and Regulations and the Terms and Conditions included on the Internet where the MLS or LMS may be accessed.

PART I
AUSTIN/CENTRAL TEXAS REALTY INFORMATION SERVICE (ACTRIS)

ARTICLE I
LISTING PROCEDURES

Section 1.1 ACTRIS will accept property listings of the following types which are listed subject to a Participant's license: Exclusive Right to Sell, Exclusive Right to Sell with prospect reservations (named prospects exempted), and Exclusive Agency. Property data forms submitted on properties listed under Exclusive Agency must so indicate in order that such information can be provided to other Participants and Subscribers of ACTRIS. Similarly, property data forms submitted on properties listed under Exclusive Right to Sell with prospect reservations must so indicate in order that such information can be provided to other Participants and Subscribers of ACTRIS.

Section 1.2 Any listing with respect to which the listing Participant or Subscriber is not obligated to provide, and will not be providing, one or more "substantial services," as defined herein, must include the code "LR" ("Limited Representation") in the Agent Remarks field. Use of that code serves only to distinguish such a listing from other listings with respect to which listing Participant or Subscriber will provide substantial services, regardless of whether the listing is an Exclusive Agency or Exclusive Right to Sell listing. For purposes of this rule, the term "substantial services" includes, but is not limited to, the following services:

- (a) arrange appointments for cooperating Participants to show listed property to potential purchasers (i.e. gives cooperating Participants or Subscribers authority to make such appointments directly with the seller(s));
- (b) accept and present to the seller(s) offers to purchase procured by cooperating Participants (i.e. gives cooperating Participants or Subscribers authority to present offers to purchase directly to the seller(s));
- (c) advise the seller(s) as to the merits of offers to purchase; or
- (d) assist the seller(s) in developing, communicating, or presenting counter-offers.

Section 1.3 Listings of properties that are of a Designated Property Type and are located within Central Texas will be accepted by ACTRIS and shall be submitted to ACTRIS or entered into the MLS within forty-eight (48) hours (except weekends and postal holidays) after all necessary signatures have been obtained. Listings of property located outside ACTRIS' jurisdiction will be accepted if submitted voluntarily by a Participant. In the event the listing is mailed to ACTRIS, the postmark date on the envelope shall determine the date it was mailed. To preclude fines for late submissions of listings, Participants should not date listings until all signatures have been affixed to the listing agreement.

Section 1.4 Listings taken by Participants on a listing agreement that is mutually acceptable to the seller and the Participant, that adequately protects the interest of the public and other Participants, that do not establish, either directly or indirectly, any contractual relationship between ACTRIS and the seller, and that otherwise comply with these Rules and Regulations and applicable laws are acceptable to ACTRIS. Listing agreements need not accompany the property data worksheet when submitted to ACTRIS. Only one Participant shall be responsible for any given listing. Where cooperative agreements are entered into between Participants, only the Participant having the right to offer compensation shall submit the listing. The listing agreement must include the seller's written authorization to submit the agreement to ACTRIS. ACTRIS shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the MLS, although a property data form may be required as approved by ACTRIS. However, ACTRIS, through its legal counsel may refuse to accept a listing form which: (a) fails to adequately protect the interests of the public and the Participants, and/or (b) establishes, directly or indirectly, any contractual relationship between ACTRIS and the client. Note: The listing agreement of a property filed with ACTRIS by the listing Participant or Subscriber should include a provision expressly granting the listing Participant authority to advertise; to file the listing with ACTRIS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to ACTRIS upon sale of the property.

Section 1.5 The full gross listing price must be stated in the listing agreement. ACTRIS shall not accept Net listings or Open listings.

Section 1.6 Any listing to be filed with ACTRIS is subject to the Rules and Regulations of ACTRIS upon signature of the seller(s). If a property is suitable for listing in more than one section of the MLS Compilation, such as a single family residence zoned for commercial use, such listing may be entered in more than one section of the MLS Compilation, provided that, ACTRIS may require payment of a service charge for the second listing. Second listings of this nature are not permitted for properties having only one clear usage category. Properties to be built shall be listed as improved properties only if a plan has been selected, selling price established, and the database entry labeled as "to be built."

Section 1.7 Participants and Subscribers must enter all Designated Property Type listings for properties within Central Texas into the MLS. All such listings shall contain, at a minimum correct and complete information for all mandatory fields, including seller's name (except as provided below). Data fields not specified as mandatory entries shall also be complete and accurate. Entering a licensed, non-ACTRIS member name in the listing is prohibited. In the event that seller does not wish his or her listing or name and telephone to be listed, filing of the listing agreement should be accompanied by certification signed by the seller that he or she does not desire the listing to be disseminated and or desire his or her name disseminated. This documentation must be submitted to ACTRIS at the time the listing is entered into the MLS. The seller's name will then be listed as "Withheld."

Section 1.8 Any change in listed price or other change in the original listing agreement, including any change in status, shall be submitted to ACTRIS or entered into the MLS within twenty-four (24) hours (except weekends and postal holidays) after the authorized change is received by the listing Participant or Subscriber. Instructions contained on the MLS change report form shall be followed when submitting changes. When a listing is “under contract” and the contract fails, the listing should be restored to Active (A) status if the listing under which the property was entered has not expired. If the listing under which the property was entered into the MLS has expired at the time the contract fails, the status may be changed to Active (A) status. In that circumstance, the listing will automatically expire at midnight on the day of the status change.

Section 1.9 Listings of properties may be withdrawn from the MLS by the MLS Participant before the expiration date of the listing agreement, provided notice is filed with ACTRIS, including a copy of the agreement between the seller and the listing Participant or Subscriber which authorizes the withdrawal.

Section 1.10 Sellers do not have the unilateral right to require MLS to withdraw a listing without the listing Participant or Subscriber’s concurrence. However, when a seller(s) can document that his or her exclusive relationship with the listing Participant or Subscriber has been terminated, ACTRIS may remove the listing at the request of the seller.

Section 1.11 When a portion of a listed property has been sold, the original listing shall be withdrawn by the listing Participant or Subscriber. The remainder of the listed property should be resubmitted to the MLS. Data on the part sold should be submitted on separate property data forms and change report forms or entered into the database, in order to assure inclusion of correct data on the sale in the statistical reports of the MLS. All properties which are to be, or may be, sold separately must be filed with the MLS individually.

Section 1.12 ACTRIS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, ACTRIS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-Participants.

Section 1.13 Any listing filed with the MLS automatically expires on the date specified in the listing agreement, as indicated on the property data form. Extensions of listings are acceptable to the MLS if filed on a change report form. If permitted to expire, a new listing agreement must be secured for the listing to be filed with the MLS. It will then be published as a new listing.

Section 1.14 Listings filed with the MLS shall bear a definite and final termination time and date as negotiated between the listing Participant or Subscriber and the seller(s).

Section 1.15 When a Participant is suspended or been expelled from ACTRIS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board

Bylaws, ACTRIS Bylaws, ACTRIS Rules and Regulations, MLS Terms and Conditions of Use, or other membership obligation except failure to pay appropriate dues, fees, or charges), ACTRIS shall, at Participant's option, include any listings then currently filed with the MLS in the MLS until such listing is sold, withdrawn or expired and shall not be renewed or extended by ACTRIS beyond the termination date of the listing agreement in effect when suspension became effective. When a Participant has been suspended or expelled from ACTRIS for failing to pay ACTRIS fees, ACTRIS is not obligated to provide services, including continued inclusion of that Participant's and its associated Subscriber's listings in the MLS Compilation of current listing information. Prior to any removal of a suspended Participant's and its associated Subscriber's listings from the MLS, the suspended Participant will be advised in writing of the intended removal so that the Participant may advise his or her clients. When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's and its associated Subscriber's listings in the MLS compilation of current listing information. Any Authorized Assistants shall be expelled upon any suspension, resignation or expulsion of the designated Participant. This Section 1.15 applies to Subscriber's individually, but only with respect to ACTRIS Bylaws, ACTRIS Rules and Regulations and MLS Terms and Conditions of Use.

Section 1.16 Negotiations with the seller(s) for the purchase of listed property filed with the MLS shall be conducted through the listing Participant or Subscriber. An offer may be delivered directly to a seller only if: (a) the listing Participant or Subscriber gives the cooperating Participant or Subscriber specific authority to deliver the offer directly, (b) a copy of the offer is sent to the listing Participant, and (c) the cooperating Participant or Subscriber delivering the offer does not otherwise negotiate or attempt to negotiate directly with the seller(s) of the listed property.

Section 1.17 The listing Participant must make arrangements to present the offer as soon as possible, or give the cooperating Participant a satisfactory reason for not doing so.

Section 1.18 The listing Participant or Subscriber shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing Participant. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing Participant shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers shall submit to the buyer all offers and counter-offers until acceptance, and shall recommend that buyers obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

Section 1.19 The cooperating Participant (including Subscriber) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing Participant. However, if the seller or lessor gives written instructions to the listing Participant that the cooperating Participant not be present when an offer the cooperating Participant secured

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

Section 1.20 The listing Participant (including Subscriber) or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser 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 written instructions.

Section 1.21 The lockboxes approved by ACTRIS shall be the preferred lockboxes for use on the MLS listed properties. Participants and Subscribers may use other lockboxes on their listed properties if they desire. In no event shall the combinations for combination lockboxes be placed in the online database, recorded in the MLS Compilations or disclosed to third parties. Entry of a combination into the MLS Compilation will constitute a violation of these Rules & Regulations, which will subject the Participant or Subscriber to a fine.

- A. Any key, programmer, or other device (hereinafter referred to as "key") by which a lockbox can be opened shall be nonduplicative. By "nonduplicative" it is not meant that the key is necessarily covered by a current patent, but that it cannot be readily copied in the manner that other types of keys are ordinarily capable of being copied.
- B. Keys must be obtained from the original manufacturer, from a recognized vendor of lockbox systems, or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, information shall be obtained from the original manufacturer to determine whether the key's pattern, code, or configuration is already in use by other boards, multiple listing services, or other users in the vicinity. Surrounding boards and multiple listing services shall also be contacted to determine whether the key's pattern, code, or configuration is currently in use.
- C. Each Participant or Subscriber who is a member of ACTRIS (active status) is eligible to hold a key subject to their execution of a lease agreement with ACTRIS.
- D. ACTRIS may refuse to sell or lease lockbox keys, 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 the Board or ACTRIS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

- E. ACTRIS may, at its discretion, lease keys to affiliate members of NAR-approved boards of REALTORS® who are actively engaged in a recognized field of real estate practice or in related fields.

- F. ACTRIS may suspend the right of lockbox key holders to use lockbox keys following their arrest and prior to their conviction for any felony or misdemeanor which, in the determination of ACTRIS, 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 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 lockbox 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.

Fines for violation of rules and procedures for administration of lockbox systems may be as much as Five Thousand Dollars (\$5,000). Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of ACTRIS and set forth in the rules and procedures.

Section 1.22 Active listings will be available for showing once entered into the MLS. Participants and Subscribers can enter approved showing instructions into the MLS. If, after reasonable effort, the cooperating Participant or Subscriber cannot contact the listing Participant or Subscriber, the cooperating Participant or Subscriber should contact the listing designated Participant or Subscriber. If, after twenty-four (24) hours, the listing Participant or Subscriber and the listing designated Participant or Subscriber cannot be contacted, the cooperating Participant or Subscriber may contact ACTRIS. The contacted official will either arrange the showing or authorize the cooperating Participant or Subscriber to contact the seller(s) directly. An exception to this would be if the listing Participant or Subscriber had previously precluded such direct contact by the cooperating Participant or Subscriber by direct notice or e-mail.

Section 1.23 The listing Participant or Subscriber shall load at least one digital image of each property (all property types) listed in the MLS within seven (7) days of the list date unless written documentation requesting a digital image not be submitted is signed by the seller and submitted to ACTRIS. Digital images submitted to MLS shall only contain photos pertinent to the listed property, floor plans of the listed property, renderings of the listed property or plat maps. If the listed property has a dwelling, at least one image must be of the front of the dwelling. This does not apply to “To Be Built” or “Under Construction” dwellings. Digital images should not contain contact

information such as names, phone numbers, email addresses or web site addresses, including use of embedded, overlaid, or digitally stamped information, except for the listing Participant's yard sign (provided that such yard sign may only be incidental to and a small portion of the digital image).

ARTICLE II **SELLING PROCEDURES**

Section 2.1 Negotiations with the seller(s) for the purchase of listed property filed with the MLS shall be conducted through the listing Participant or Subscriber. An offer may be delivered directly to a seller only if: (a) the listing Participant or Subscriber gives the cooperating Participant or Subscriber specific authority to deliver the offer directly, (b) a copy of the offer is sent to the listing Participant, and (c) the cooperating Participant or Subscriber delivering the offer does not otherwise negotiate or attempt to negotiate directly with the seller(s) of the listed property.

Section 2.2 The listing Participant or Subscriber must make arrangements to present the offer as soon as possible, or give the cooperating Participant or Subscriber a satisfactory reason for not doing so.

Section 2.3 The listing Participant or Subscriber shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or otherwise agreed in writing between the seller and the listing Participant or Subscriber. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing Participant shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer. Participants representing buyers shall submit to the buyer all offers and counter-offers until acceptance, and shall recommend that buyers obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

Section 2.4 The cooperating Participant or Subscriber (subagent or buyer agent) or his or her representative has the right to participate in the presentation to the seller of any offer he or she secured from his or her client. The Participant or Subscriber does not have the right to be present at any discussion or evaluation of that offer by the seller and the listing Participant or Subscriber. However, if the seller gives prior written instructions to the listing Participant or Subscriber that the cooperating Participant or Subscriber not be present when an offer the cooperating Participant or Subscriber secured is presented, the cooperating Participant or Subscriber has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing Participant or Subscriber's right to control the establishment of appointments for such presentations.

Section 2.5 All status changes, including final closing of sales, shall be reported to the MLS by the listing Participant or Subscriber within twenty-four (24) hours after they have occurred. Note: The buyer representative agreement should include a provision expressly granting the listing Participant authority to advertise and to provide sales information, including selling price, to ACTRIS upon sale of the property.

Section 2.6 The listing Participant or Subscriber shall report to ACTRIS within twenty-four (24) hours that a contingency on file with ACTRIS has been fulfilled or renewed, or the agreement cancelled.

Section 2.7 The listing Participant or Subscriber shall report immediately to the MLS the cancellation of any pending sale and the listing shall be reinstated immediately.

Section 2.8 A listing shall not be advertised by any Participant or Subscriber, other than the listing Participant or Subscriber, without the prior consent of the listing Participant or Subscriber.

Section 2.9 The listing Participant or Subscriber or his or her representative has the right to participate in the presentation of any counteroffer made by the seller. The listing Participant or Subscriber does not have the right to be present at any discussion or evaluation of a counteroffer by the purchaser (except when the cooperating Participant or Subscriber is a subagent). However, if the purchaser gives written instructions to the cooperating Participant or Subscriber that the listing Participant or Subscriber not be present when a counteroffer is presented, the listing Participant or Subscriber has the right to a copy of the purchaser's written instructions.

Section 2.10 Listing Participants or Subscribers shall not include properties in the Service that are not available to show or inspect.

ARTICLE III **REFUSAL TO SELL**

Section 3.1 If the seller(s) of any listed property filed with ACTRIS refuses to accept a written offer on the terms and conditions stated in the listing, such information shall be communicated to the Participants.

ARTICLE IV **PROHIBITIONS**

Section 4.1 Any listing filed with the MLS shall not be made available to anyone other than Participants or Subscribers without the prior consent of the listing Participant or Subscriber.

Section 4.2 Except solely as specified in a separate written agreement between ACTRIS and Participant or ACTRIS and Subscriber, (a) Listing Content shall not be utilized by Participants or Subscribers for any purpose other than the purposes provided for in these Rules and Regulations and (b) Participants and Subscribers agree that they will not, in any form, disclose, sell, assign, lease, commercially exploit, or otherwise provide to third parties or cause to be disclosed, sold, assigned, leased, commercially exploited, directly or indirectly, the Listing Content or any compilation. Any unauthorized attempt, successful or unsuccessful, to disclose, sell, assign, lease, commercially exploit, or otherwise provide Listing Content (all or part of the MLS) to third parties could result in loss of membership and a penalty of Five Thousand Dollars

(\$5,000) for the Participant. Any Participant or Subscriber shall promptly notify ACTRIS if he or she believes that any use by a Participant or Subscriber is inconsistent with the foregoing.

Section 4.3 Only the “FOR SALE” sign of the listing Participant may be placed on a property.

Section 4.4 Prior to closing, only the “SOLD” sign of the listing Participant may be placed on a property, unless the listing Participant authorizes the cooperating Participant (selling Participant) to post such a sign.

Section 4.5 Participants shall not solicit a listing on property filed with ACTRIS unless such solicitation is consistent with ARTICLE 16 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations. This Section 4.5 is to be construed in a manner consistent with ARTICLE 16 of the Code of Ethics and particularly Standard of Practice 16-4 and is intended to encourage sellers to permit their properties to be filed with the MLS by protecting them from being solicited, prior to expiration of the listing, by Participants and salespersons seeking the listing upon its expiration. Without such protection, a lessor could receive hundreds of calls, communications, and visits from Participants and salespersons who have been made aware, through the MLS filing, of the date the listing will expire and desire to substitute themselves for the present Participant. This Section 4.5 is also intended to encourage Participants to participate in the MLS by assuring them that other Participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this Section 4.5, listing Participants would be most reluctant to generally disclose the identity of the seller or the availability of the property to other Participants. This Section 4.5 does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to ARTICLE 16 of the Code of Ethics.

Section 4.6 Listings found to have been submitted for and/or entered in the wrong MLS-designated geographical area, or listings found to have incomplete mandatory items or incorrect data, will be subject to a fine after notification of Participant or Subscriber if correction has not been made within forty-eight (48) hours following such notification.

Section 4.7 Notwithstanding anything herein to the contrary, a Participant or a Subscriber that is an Appraiser and that accesses the MLS in his or her role as an Appraiser may only access the MLS for purposes of appraising real property in accordance with the rules and regulations promulgated by the Texas Appraiser Licensing and Certification Board and the MLS Terms and Conditions of Use.

ARTICLE V **COMPENSATION**

Section 5.1 The listing Participant or Subscriber shall specify, on each listing filed with the MLS, the compensation offered to other Participants for their services in

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

Section 5.2 In filing a property with the MLS, the Participant is making blanket unilateral offers of compensation to the other Participants, and shall therefore specify on each listing filed with the MLS the compensation being offered to the other Participants. Specifying the compensation on each listing is necessary, because the cooperating Participant has the right to know what his or her compensation shall be prior to his or her endeavor to sell.

Section 5.3 Participants must disclose potential short sales when reasonably known to the listing Participants. When disclosed, Participants may, at their discretion, advise other Participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating Participants.

Section 5.4 The compensation specified on listings filed with the MLS shall appear in one of two forms. The essential and appropriate requirement by ACTRIS is that the information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing Participant or Subscriber, in writing, in advance of his or her producing an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms: (a) by showing a percentage of the gross selling price, or (b) by showing a definite dollar amount. The listing Participant retains the right to determine the amount of compensation offered to other Participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) which may be the same or different.

Section 5.5 Listing Participant or Subscriber may communicate to potential cooperating Participants or Subscribers that gross commissions established in listing contracts are subject to court approval or current lien holders; and that compensation payable to cooperating Participant or Subscriber may be reduced if the gross commission established in the listing contract is reduced by a court or by current lien holders. In such

instances, the fact that the gross commission is subject to court or current lien holders' approval, and either the potential reduction in compensation payable to cooperating Participant or Subscriber or the method by which the potential reduction in compensation will be calculated, must be clearly communicated to potential cooperating Participant or Subscriber prior to the time they produce an offer that ultimately results in a successful transaction.

Section 5.6 The listing Participant is not precluded from offering any other Participant or Subscriber compensation other than the compensation indicated on any listing published by the MLS, provided the listing Participant informs the other Participant or Subscriber, in writing, in advance of his or her producing an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the MLS. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

Section 5.7 The existence of a dual or variable rate commission arrangement (i.e., one in which the seller agrees to pay a specified commission if the property is sold by the listing Participant or Subscriber without assistance and a different commission if the sale results through the efforts of a cooperating Participant or Subscriber; or one in which the seller agrees to pay a specified commission if the property is sold by the listing Participant or Subscriber either with or without the assistance of a cooperating Participant or Subscriber and a different commission if the sale results through the efforts of a seller) shall be disclosed by the listing Participant or Subscriber by a key, code, or symbol as required by ACTRIS. The listing Participant or Subscriber shall, in response to inquiries from potential cooperating Participant or Subscriber, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale that results through the efforts of the seller.

If the cooperating Participant or Subscriber is a buyer representative, the buyer representative must disclose such information to his or her client before the client makes an offer to purchase.

Section 5.8 The listing Participant or Subscriber may, from time to time, adjust the compensation offered to other Participants for their services with respect to any listing by advance published notice in the MLS so that all Participants will be advised.

Section 5.9 In cooperative transactions, Participants will receive the compensation specified on the data entry form or entered into the database and published by ACTRIS unless advised differently by the listing Participant in advance and in writing. ACTRIS cannot specify the method of delivery or the level of postal service to be used. The Participant must make that determination.

Section 5.10 If a Participant or a Subscriber affiliated with the Participant has any ownership interest in a property, the listing of which is to be disseminated through the MLS, that person shall disclose that interest when the listing is filed with the MLS and such information shall be disseminated to all MLS Participants.

Section 5.11 If a Participant or Subscriber affiliated with the Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing Participant or Subscriber no later than the time an offer to purchase is submitted to the listing Participant or Subscriber.

ARTICLE VI **FEES AND CHARGES**

Section 6.1 A one-time Participant and Subscriber “start-up” fee shall be an amount established by the ACTRIS Board of Directors and shall be payable prior to the provision of any services. Such fee and fee amount will be related to a “Participant” without regard for the number of offices or Subscribers. Fee information is available through Board staff or abor.com.

Section 6.2 The semi-annual Participation Fee of each Participant and Subscriber shall be an amount established by the ACTRIS Board of Directors. Payment of such fees shall be made on or before the fifteenth (15th) day of the month preceding the MLS semi-annual period for which service is desired. Billing notices are mailed or e-mailed to currently active Participants and Subscribers; however, failure to receive such notice does not relieve the Participant or Subscriber from timely payment if service for the succeeding semi-annual period is desired. Payments received after the due date must be accompanied by a Late/Reinstatement Fee; otherwise, such payments will not be accepted and service will be terminated at the end of the current semi-annual period and not reinstated until both the Late/Reinstatement Fee and semi-annual Participation Fees are received. Each Appraiser employed or engaged by, or associated with, or using the offices of a Participant or a Participant’s associated firm must be identified as a Participant or a Subscriber.

Section 6.3 ACTRIS or the Board may establish charges/fees (such as MLS fees, lockbox system fees, fines, and reinstatement fees, etc.) from time to time.

Section 6.4 Failure to pay any charge created under Section 6.2 above by the due date, and provided that at least ten (10) days notice has been given, shall result in the suspension of services until such charges have been paid in full.

ARTICLE VII **COMPLIANCE WITH RULES/AUTHORITY TO IMPOSE DISCIPLINE**

Section 7.1 By becoming and remaining a Participant or Subscriber, each Participant and Subscriber agrees to be subject to these Rules and Regulations and the MLS Terms and Conditions of Use. ACTRIS may, through the administrative and hearing procedures established in Article VIII, impose discipline for violations of the Rules and Regulations and the MLS Terms and Conditions of Use. Discipline that may be imposed may only consist of one or more of the following:

- (a) letter of warning;
- (b) letter of reprimand;

- (c) attendance at MLS orientation or other appropriate courses or seminars which the Participant or Subscriber can reasonably attend taking into consideration cost, location, and duration;
- (d) appropriate, reasonable fine not to exceed \$15,000;
- (e) probation for a stated period of time not less than thirty (30) days nor more than one (1) year;
- (f) suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year;
- (g) termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

ARTICLE VIII **ENFORCEMENT OF RULES**

Section 8.1 The ACTRIS Board of Directors shall give consideration to all written complaints having to do with a violation of these Rules and Regulations, acknowledged by a Participant or Participants and Subscriber. Participants may be held responsible for all actions of affiliated Subscribers.

Section 8.2 If the alleged offense is a violation of the Rules and Regulations of ACTRIS and does not solely involve a charge of alleged unethical conduct or request for arbitration, it will be administratively considered and determined by the ACTRIS Board of Directors; and, if a violation is determined, the ACTRIS Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may initially appeal to the ACTRIS Board of Directors. Such appeal must be made in writing within thirty (30) days of notification of such sanction, and should contain any information pertinent to the matter for which sanction was imposed. Thereafter, the recipient of a sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board within twenty (20) days following receipt of the ACTRIS Board of Directors' final decision. The sanction may consist of a fine being levied against the Participant of such an amount (not to exceed the maximum allowable fine) as may be determined by the ACTRIS Board of Directors. Participant and/or Subscriber agree that it may be difficult to quantify damages in connection with any breach by Participant and/or Subscriber of these terms and conditions and that the preceding fine as liquidated damages is a fair and reasonable calculation of such damages. Participant and/or Subscriber further agree that, because the damages may not fully compensate ACTRIS for its losses in connection with a breach of these terms and conditions, ACTRIS may obtain injunctive relief to prevent the breach of any of these terms and conditions without posting a bond.

Section 8.3 With respect to a REALTOR®, the ACTRIS Board of Directors shall refer all complaints of unethical conduct to the Board for appropriate action in accordance with the Bylaws of the Board and the Code of Ethics.

ARTICLE IX
CONFIDENTIALITY OF ACTRIS INFORMATION

Section 9.1 Any information provided by the MLS to the Participants shall be considered official information of ACTRIS. Such information shall be considered confidential and exclusively for the use of ACTRIS, Participants and Subscribers. Participant and Subscriber agree to use best efforts to protect the confidentiality of their passwords and to prevent unauthorized access to the MLS, the MLS Compilation or any MLS tool.

Section 9.2 Participant and/or Subscriber may not disclose and shall use independent best efforts to protect the confidentiality of restricted fields, names, and addresses included in the MLS; provided, however, the listing or selling Participant of a property may use the “sold” information for that property in advertising Participant’s services. Participants and Subscribers are advised that Texas is considered a non-disclosure state (i.e. there are no state laws requiring the disclosure of “sold” information), and as such buyers and sellers in Texas may have an expectation of confidentiality of such information.

Section 9.3 A Participant or Subscriber may utilize current listing information, “sold” information, “comparables,” or statistical information to support an estimate of value on a particular property for a particular client. However with respect to “sold” information, only such information ACTRIS has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of “sold” information, including, without limitation, importation of such information into a separate database, is unauthorized and prohibited by these Rules and Regulations.

Section 9.4 Participant or Subscriber may provide prospective purchasers or sellers with individual property records (or portion of individual property records) relating to properties which the prospective purchaser or seller has a bona fide interest in purchasing or selling, or in which the Participant or Subscriber is seeking to promote interest. The term “reasonable,” as used herein, should therefore be construed to permit only limited reproduction of individual property records (or portion of individual property records) intended to facilitate the prospective purchaser’s decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent, and thus “reasonable” in number, shall include, but are not limited to, the total number of listings in the MLS Compilation, how closely the types of properties contained in such listings conform with the prospective Purchaser’s expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the types of properties contained in the Listing Content is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

Section 9.5 Except as otherwise expressly provided herein or in a written agreement between ACTRIS and Participant or ACTRIS and Subscriber, the contents of the MLS Compilation, or any information, including statistical information, derived from

the MLS Compilation, may not, in whole or in part, be reproduced, copied, disseminated, sublicensed, transferred, assigned, entered into a computer database, used as part of or in connection with a mailing list, or otherwise utilized, in any form or manner or by any means, except for the user's individual, personal, and confidential reference. Notwithstanding the foregoing a Participant or Subscriber may make statistical information derived from the contents of the MLS Compilation available to clients and prospective clients in connection with the marketing of the Participant's brokerage services. However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Board or ACTRIS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

“Based on information from the Austin Board of REALTORS® (alternatively, from ACTRIS) for the period (date) through (date).”

Section 9.6 REALTOR® Participants may designate one (1) or more Authorized Assistant(s). After acceptance of such Authorized Assistants by ACTRIS, the Authorized Assistant(s) may access the MLS solely in connection with the provision of Services to the REALTOR® Participant in a manner in which the REALTOR® Participant would be permitted to access and use the MLS. The authorizing-REALTOR® Participant shall be responsible for all acts or omissions of the Authorized Assistant(s) as if such acts or omissions were done by the REALTOR® Participant. ACTRIS reserves the right to impose a fee on the access provided to Authorized Assistants.

ARTICLE X **AMENDMENTS**

Section 10.1 The power to alter, amend, or repeal the ACTRIS Rules and Regulations is vested in the ACTRIS Board of Directors, subject to review and approval by the Board of Directors of the Austin Board of REALTORS®.

ARTICLE XI **OWNERSHIP**

Section 11.1 By the act of submission of any Listing Content to ACTRIS or into the MLS Compilation, the Participant and/or Subscriber represents and warrants that he or she owns all right, title and interest in the Listing Content, has obtained necessary consents to comply with these Rules and Regulations, if any, from any third party to any materials included in such Listing Content, and to grant, and thereby does grant, ACTRIS (and its service providers and licensees) an irrevocable, worldwide, paid-up, royalty-free, right and license to include the Listing Content in the MLS Compilation, any statistical report or comparables, and to use it and authorize its use for any purpose consistent with the facilitation of the sale, lease and valuation of real property or such other use; provided that with respect to such other use, the Participant has not opted-out of such other use after notice of the same.

Section 11.2 ACTRIS shall own all right, title, and interest in the MLS Compilation, including all intellectual property rights. The term “MLS Compilation” as used in the foregoing sentence shall be construed to include the full MLS Compilation and any part thereof, in any format in which Listing Content, is collected, retrieved, displayed, and/or disseminated, including, but not limited to, bound books, loose leaf binder, computer database, card file, any computer readable medium, any printed format, or any format whatever to the greatest extent permitted by law.

ARTICLE XII **USE OF COPYRIGHTED ACTRIS COMPILATIONS**

Section 12.1 ACTRIS shall grant Participant and Subscriber a limited, non-exclusive, personal, revocable license solely to use and copy the Compilation, subject to all of the limitations and restrictions set forth herein. Participants and Subscribers shall at all times maintain control over and responsibility for each copy of any Compilation licensed to them by ACTRIS, and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as a Subscriber of the MLS.

Section 12.2 Virtual Office Websites. (a) A Virtual Office Website (“VOW”) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the Participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant’s oversight, supervision, and accountability.

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

(c) “Affiliated VOW Partner” (“AVP”) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS Listing Information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW.

(d) As used in Article XII of these Rules, the term “MLS Listing Information” refers to active listing information provided by Participants to the MLS and aggregated and distributed by the MLS to Participants.

Section 12.3 (a) The right of a Participant's VOW to display MLS Listing Information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.

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

(c) Except as otherwise provided in the VOW Policy or in these Rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant's VOW.

Section 12.4 (a) Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the Participant must take each of the following steps:

- (1) The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- (2) The Participant must obtain the name of, and a valid email address for, each Registrant. The Participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The Participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.
- (3) The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any email address is associated with only one user name and password.

(b) The Participant must assure that each Registrant's password expires on a date certain but may provide for renewal of the password. The Participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The Participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant's password.

(c) If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or

violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

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

- (1) That the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;
- (2) That all information obtained by the Registrant from the VOW is intended only for the Registrant’s personal, non-commercial use;
- (3) That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW;
- (4) That the Registrant will not copy, redistribute, or retransmit any of the information provided except in connection with the Registrant’s consideration of the purchase or sale of an individual property;
- (5) That the Registrant acknowledges the MLS’s ownership of, and the validity of the MLS’s copyright in, the MLS database.

(e) The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.

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

Section 12.5 A Participant’s VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions, or get more information, about any property displayed on the VOW. The Participant, or a non-principal broker or sales licensee licensed with the Participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW.

Section 12.6 A Participant’s VOW must employ reasonable efforts to monitor for, and prevent, misappropriation, “scraping”, and other unauthorized use of MLS Listing Information. A Participant’s VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

Section 12.7 (a) A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

"Seller Opt Out Form

1. Please check either Option a or Option b

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

OR

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

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

initials of seller"

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

Section 12.8 (a) Subject to subsection (b), a Participant's VOW may allow third-parties (i) to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

(b) Notwithstanding the foregoing, at the request of a seller the Participant shall disable or discontinue either or both of those features described in subsection (a) as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 12.9, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled "at the request of the seller."

Section 12.9 A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

Section 12.10 A Participant shall cause the MLS Listing Information available on its VOW to be refreshed at least once every three (3) days.

Section 12.11 Except as provided in these Rules, the National Association of REALTORS® VOW Policy, or any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS Listing Information to any person or entity.

Section 12.12 A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

Section 12.13 A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

Section 12.14 A Participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these Rules, the VOW Policy, and any other applicable MLS rules or policies.

Section 12.15 A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant.

Section 12.16 Internet Data Exchange ("IDX"). IDX affords Participants the option of authorizing display of their active listings on other Participants' sites ("IDX sites"). Participants' consent for display of their active listings by other Participants pursuant to these Rules and Regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants. Even where Participants have given blanket authority for

other Participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller.

In addition, IDX sites shall be subject to the following requirements:

- (1) All Participants and Subscribers are provided an approved IDX site with their membership in ACTRIS.
- (2) Participants must protect Listing Content accessible via IDX from misappropriation by employing reasonable efforts to monitor and prevent “scraping” or other unauthorized accessing, reproduction, or use of the MLS Compilation.
- (3) Listings or property addresses of sellers who have directed their listing Participants to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing Participants may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.
- (4) Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location (e.g., “uptown”, “downtown”, etc.), list price, type of property (e.g., “condos,” “single family detached,” “multi-family,” etc.), cooperative compensation offered by listing Participants, type of listing (e.g., exclusive right to sell or exclusive agency), or the level of service being provided by the listing Participant. Selection of listings displayed on an IDX site must be independently made by each Participant.
- (5) Participants must refresh all MLS Compilation downloads and refresh all Listing Content downloaded from the MLS at least once every three (3) days. All IDX sites provided by ACTRIS are in compliance with this section. If a Participant chooses to establish an IDX site through a third party, the Participant will be responsible for ensuring compliance with this section.
- (6) Except as provided in these rules, an IDX site or a Participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS Compilation available to any person or entity.
- (7) When displaying Listing Content, a Participant’s or user’s IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

Section 12.17 Each Participant shall exercise oversight, supervision and be responsible for its Internet website (“site”) (and, where authorized, web sites of non-principal Participants and Subscribers affiliated with MLS Participants) through which consumers receive information, including the opportunity to search for MLS content. Subscribers may operate sites with their affiliated Participant’s consent, however Subscriber’s sites remain subject to the Participant’s control, and both the Participant and the Subscriber shall be accountable under these rules.

Section 12.18 A Participant's site may not make available for search by, or display to, Registrants any of the following information: (i) Expired, withdrawn or pending ("under contract") listings, (ii) the compensation offered to other Participants, (iii) the type of listing agreement, i.e. exclusive right to sell or exclusive agency, (iv) the seller(s) and occupant(s) name(s), phone number(s) or email address(es), (v) instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property, (vi) sold information.

Section 12.19 A Participant shall not change the content of any MLS Listing Information that is displayed on a VOW or IDX site from the content as it is provided in the MLS. The Participant may, however, augment MLS Listing Information with additional information not otherwise prohibited by these Rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS Listing Information or the display of fewer than all of the listings or fewer than all of the authorized information fields on a VOW or IDX site. In addition, the following guidelines apply to any VOW or IDX site:

- (1) A Participant shall cause to be placed on the site a notice indicating that the MLS Listing Information displayed on the site is deemed reliable but is not guaranteed accurate by the MLS. A Participant's site may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability.
- (2) A Participant shall cause any listing that is displayed on the site to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.
- (3) A Participant shall cause any listing displayed on the site that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.
- (4) A Participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

Section 12.20 The name, address, phone number and company logo of the Participant operating the site and/or the name, address and phone number of the Subscriber operating the VOW or IDX site, and any information required by state law or regulation may be visible on a page displaying any portion of the listings of other Participants.

Section 12.21 Any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Board or ACTRIS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

"Based on information from the Austin Board of REALTORS® (alternatively, from ACTRIS) for the period (date) through (date)."

Section 12.22 Distribution of Individual Property Records. Participants and Subscribers may reproduce from the MLS Compilation, and distribute to prospective purchasers or prospective sellers, a reasonable* number of individual property records (or portion of individual property records) contained in the MLS Compilation which relate to any properties in which prospective purchasers or sellers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Section 12.23 Participant's Own Compilations. Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of content pertaining exclusively to properties currently listed for sale with the Participant.

Section 12.24 Exclusive Use of Participant. Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those Subscribers affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

Section 12.25 Estimates. None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, "sold" information, "comparables," or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned MLS has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information, other than as expressly permitted in these Rules and Regulations, is unauthorized and prohibited by these Rules and Regulations.

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

Section 12.26 Except as otherwise expressly provided herein or in a written agreement between ACTRIS and Participant or ACTRIS and Subscriber, the contents of the MLS Compilation may not, in whole or in part, be reproduced, copied, disseminated, sublicensed, transferred, assigned, entered into a computer compilation, used as part of or in connection with a mailing list, or otherwise utilized, in any form or manner or by any means, except for the user's individual, personal, and confidential reference.

ARTICLE XIII
ACTRIS FINES, RESIDENTIAL BROKERAGE

Section 13.1 The following fines are illustrative and not exhaustive. The fines may be imposed and appealed pursuant to the procedures set forth in Article VIII.

Section 13.2 **UNAUTHORIZED USE:** ACTRIS, Participant and Subscriber agree that it may be difficult to quantify damages in connection with any breach by Participant and/or Subscriber of these terms and conditions and that the following liquidated damages are a fair and reasonable calculation of the damages. Participant and/or Subscriber further agree that, because the damages may not fully compensate ACTRIS for its losses in connection with a breach of these terms and conditions, ACTRIS may obtain injunctive relief to prevent the breach of any of these terms and conditions without posting a bond.

Section 13.3 **MLS ACCESS BY A NON-SUBSCRIBER:** up to \$2,500. Unauthorized access to MLS or the MLS Compilation may result in a substantial fine up to the maximum allowable fine and other sanctions to the Participant. If Participant and/or Subscriber uses the MLS or the MLS Compilation, including, without limitation, providing access to the MLS or the MLS Compilation in any manner not expressly authorized under these Rules and Regulations or any data license agreement entered into by and between ACTRIS and the applicable Participant and/or Subscriber, the Participant and/or Subscriber is subject to his or her access and/or rights to use the MLS Compilation or the MLS being terminated.

Section 13.4 Further, if the Participant or Subscriber uses the MLS, the MLS Compilation, or any MLS tool, including without limitation, a Keypad, in any manner not expressly authorized under these Rules and Regulations, the MLS Terms and Conditions or any data license agreement entered into by and between ACTRIS and the applicable Participant and/or Subscriber, whether or not, expressly prohibited under these Rules and Regulations or the MLS Terms and Conditions, is subject to a fine of up to the maximum allowable fine and other sanctions to the Participant. Additional actions could include the filing of a complaint with the Professional Standards Committee of the Board and initiating legal action, should the circumstances so indicate.

Section 13.5 **VIOLATION OF THE TERMS AND CONDITIONS OF USE.**

Specific violations include, but are not limited to:

- (1) **UNAUTHORIZED USE OF A KEYPAD:** 1st Offense \$250, 2nd Offense \$500. Keypads may not be shared by Participants and/or Subscribers or with non-Participants or non-Subscribers (spouses, assistants, customers, etc.)
- (2) **KEEPING PIN CODE WITH KEYPAD OR SAFEMLS TOKEN:** 1st Offense \$250, 2nd Offense \$500.

- (3) UNAUTHORIZED USE OF MLS TOOLS: 1st Offense \$250, 2nd Offense \$500. Sharing of MLS tools with non-MLS Participants or Subscribers is prohibited.
- (4) LICENSED, NON-ACTRIS MEMBER NAME IN MLS LISTING: 1st Offense \$250, 2nd Offense \$500. Entering a licensed, non-ACTRIS member name is prohibited.
- (5) NON COMPLIANCE OF IDX OR VOW POLICY: 1st Offense \$250, 2nd Offense \$500.

Section 13.6 DATABASE VIOLATIONS.

Specific violations include, but are not limited to:

- (1) LATE SUBMISSION OF LISTING: \$100 per offense. Listing must be entered into the system within forty-eight (48) hours of the instructions per the listing agreement.
- (2) LATE REPORTING OF "PENDING" STATUS: \$100 per offense. Participant or Subscriber must report status of "P," "PB," or "AC" within twenty-four (24) hours of change. A 24-hour warning period is issued before a fine is incurred.
- (3) LATE REPORTING OF "SOLD" STATUS: \$100 per offense. Participant or Subscriber must report a listing as sold within twenty-four (24) hours of the closing and/or funding on a listing. A 24-hour warning period is issued before a fine is incurred. Listing cannot be withdrawn if sold.
- (4) PENDING OVER 4 MONTHS: \$100 per offense. If Participant or Subscriber is notified that a listing is "PO," they must update the listing to reflect one of the following: appropriate sold date, return to active status or enter tentative close date. Participant or Subscriber will have seventy-two (72) hours after notification to correct the listing before a fine is incurred.
- (5) INCORRECT/INCOMPLETE INFORMATION: \$100 per offense. All listings must contain correct and complete information in all the fields. Listing Participant or Subscriber will have forty-eight (48) hours to correct the listing before a fine is incurred.
- (6) INCORRECT SOLD INFORMATION: \$100 per offense. All listings must contain correct and complete sold information, including the sold price and all other required fields. Listing Participant or Subscriber will have forty-eight (48) hours to correct the listing before a fine is incurred.

Section 13.7 Failure to correct any of the above will result in the imposition of additional fines each ten (10) days after the date the original fine was mailed. Where there is continuing and apparently willful violation relative to a property listing or the collective listings of a Participant, a fine of up to Five Thousand Dollars (\$5,000) may be imposed by the ACTRIS Board of Directors.

Section 13.8 IMMEDIATE FINES.

Specific violations include, but are not limited to:

- (1) **COMPUTER CLASS VIOLATIONS:** \$25 per offense. If Participant or Subscriber scheduled him/herself for a class and fails to attend or cancel within twenty-four (24) hours prior to the class, Participant or Subscriber will be fined. If an Authorized Assistant fails to attend or cancel within twenty-four (24) hours, the Authorized Assistant will be fined. If Participant or Subscriber is a new member and misses the scheduled mandatory class, computer access will be stopped until agent reschedules.
- (2) **ANY SECURITY CODE IN LISTING:** \$100 per offense. For safety and liability issues, gate, combination and security codes are not to be included in any listings. The attachment must be labeled Security Code Attachment. This type of information is prohibited within the listing content, such as Agent Remarks, Internet Remarks, Directions, but not limited to these data fields.
- (3) **INCORRECT ADDRESS:** \$100 per offense. Only the address may be entered in the Address Field: any other information, including, without limitation, Reduced, Back on Market, New Listing, is prohibited in the Address Field.
- (4) **FAILURE TO COMPLY WITH PHOTO POLICY:** \$100 per offense. At least one digital image of each property (all property types) listed in the MLS shall be loaded within seven (7) days of the list date unless written documentation requesting a digital image not be submitted is signed by the seller and submitted to ACTRIS. If the listed property has a dwelling, at least one image must be of the front of the dwelling. This does not apply to "To Be Built" or "Under Construction" dwellings. Digital images submitted to MLS shall only contain photos pertinent to the listed property, floor plans of the listed property, renderings of the listed property or plat maps. Digital images should not contain contact information such as names, phone numbers, email addresses or web site addresses, including use of embedded, overlaid, or digitally stamped information, except for the listing Participant's yard sign (provided that such yard sign may only be incidental to and a small portion of the digital image).
- (5) **DIRECTIONS:** \$100 per offense. Directions are a required field. All listings must contain directions. It is not appropriate to enter telephone numbers, e-mail addresses, or Web site addresses in this field as there are other specified fields in the listing format for this information.
- (6) **DOUBLE LISTING:** \$100 per offense. A listing cannot be entered twice in the same category. Listings can be entered into two (2) different categories for a Five Dollar (\$5) charge.
- (7) **IMPROPER USE OF LISTING:** \$100 per offense. The intent and purpose of the MLS listing is to share information about the property and offer compensation and cooperation to other members. It is a violation of this intent to use any field for anything but its intended purpose. This

- specifically includes, but is not limited to, promotion of an individual, a company, or a marketing plan.
- (8) UNAUTHORIZED LISTING INFORMATION FOR INTERNET DATA EXCHANGE DISPLAY: \$100 per offense. Only a physical description of the property shall be entered in the Internet Remarks section. Any name, phone number, branded photos, any Web site or Web address, etc. is prohibited in the Internet Remarks section due to violation of IDX policies. Home builder name permitted, as it describes the property. Photo descriptions are limited to descriptive narrative that describes the property. Virtual tours cannot display any name, phone number, agent branding or web addresses since this information is displayed on IDX sites.
 - (9) IMPROPER USE OF SOLD DATA: \$100 per offense. Any use of “sold” information other than to (a) support an estimate of value on a particular property for a particular client or (b) advertise Participant’s services.
 - (10) FAILURE TO REPORT SOLD DATA: \$500 per offense. Members cannot allow listings to expire, withdraw the listing, or report as another status (other than sold) if listing sells. If a listing is not reported as sold, member will incur an immediate fine of Five Hundred Dollars (\$500). Listing Agents obtain permission from seller to report sold data before entering listing into the MLS, eliminating “confidentiality” questions of disclosing sold price as a condition of purchase. If the correct sold information is not submitted to ACTRIS within twenty-four (24) hours of notification, an additional fine of Five Hundred Dollars (\$500) will be imposed up to a maximum amount allowable fine and other sanctions. If a Participant and/or Subscriber fails to report sold data, the Participant and/or Subscriber is subject to loss of his or her access and/or rights to use the MLS Compilation.
 - (11) DISPARAGING/DISCRIMINATORY REMARKS IN LISTINGS: \$100 per offense. Remarks made in a belittling manner, decry or reduce in rank or esteem. A twenty- four (24) -hour warning period is issued before a fine is incurred.
 - (12) ENTERING INCORRECT SELLING AGENT: \$100 per offense. The correct selling agent must be entered. If a non-member participates in the sale of the property, Participant or Subscriber must enter NON MBR.

Section 13.9 WARNING LETTERS/EMAILS.

Warning letters/emails are provided as notification of certain incorrect or incomplete entries in the database. If the entry is not corrected within forty-eight (48) hours of the notice, a fine of One Hundred Dollars (\$100) is imposed. Some examples are: School District, School Name, Zip Code, Owner Name (may be withheld only if a letter from the owner is on file or indicated in the ACTRIS Listing Agreement), City (if outside any city, use the mailing address city), omission of Subdivision or Survey Name from the “Legal” Field, comments that could be harmful to the interests of the seller, or abbreviation where truncation should be used.

- (1) **INCORRECT PARCEL IDENTIFICATION (PID):** \$100 per offense. Only the correct PID, as identified in ACTRIS' tax system, may be entered in the PID Field. If a PID is not assigned by the county or if the property is listed in another category, the address may be entered in the PID field. Listing must be corrected within 48 hours or incur a \$100 fine.
- (2) **IMPROPER USE OF TERM "MLS" OR "MULTIPLE LISTING SERVICE":** \$100 per offense—Because information accessible on Participants' or Subscribers' websites is not the full ACTRIS MLS, Participants and/or Subscribers may not use terms that directly or indirectly imply that the public is searching the ACTRIS MLS from their website. Participant or Subscriber shall have 48 hours to update website or incur a \$100 violation.

Section 13.10 CONTINUAL INFRINGEMENTS.

Continual Infringement violations are defined by the three categories listed below:

- (1) **UNAUTHORIZED USE:**
 - a. Subscriber and affiliated Participant will be notified by email, U.S. Mail or appropriate method within ten (10) days.
 - b. First offense of an Unauthorized Use violation within a three (3) -year rolling period: \$250
 - c. Second offense of an Unauthorized Use violation within a three (3) -year rolling period: \$500.
 - d. Violators of a Third offense of an Unauthorized Use violation within a three (3) -year rolling period are subject to ACTRIS Directors' decision to impose fines up to the maximum allowable fine and other sanctions (including referral to ABOR Professional Standards Committee for possible Code of Ethics violations.)
- (2) **DATABASE VIOLATIONS: \$100.**
 - a. Subscriber and affiliated Participant will be sent a warning email to correct listing within forty-eight (48) hours.
 - b. If listing is not corrected within forty-eight (48) hours a One Hundred Dollar (\$100) fine is assessed. Agent and Broker are notified by U.S. Mail or appropriate method within ten (10) days.
 - c. The fine is doubled every ten (10) days the correction is not made. (Example: \$100 fine doubles to \$200, \$200 doubles to \$400, up to allowable fine.)
 - d. A Fourth Database Violation occurring within a rolling twelve (12) -month period is considered a Continual Infringement. Violators are subject to ACTRIS Directors' decision to impose fines up to the maximum allowable fine and other sanctions (including referral to ABoR Professional Standards Committee for possible Code of Ethics violations.)

- (3) IMMEDIATE FINES:
- a. A One Hundred Dollar (\$100) immediate fine is assessed. ABoR staff will correct listing.
 - b. Subscriber and affiliated Participant will be notified via email, U.S. mail or appropriate method.
 - c. Photo policy violations receive an immediate fine and fine is doubled every ten (10) days. Member must enter a digital image of the listed property to stop the fine from doubling.
 - d. A Fourth violation of ANY rule in SECTION 5 within a twelve (12) -month rolling period is considered a Continual Infringement. Violators are subject to ACTRIS Directors' decision to impose fines up to the maximum allowable fine and other sanctions (including referral to ABoR Professional Standards Committee for possible Code of Ethics violations.)
 - e. Failure to report sold data is an immediate violation but subject to higher fines. a fine of \$500.

ARTICLE XIV
ORIENTATION

Section 14.1 Any applicant to be a Participant or Subscriber, including Authorized Assistants, who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the ACTRIS Rules and Regulations and computer training related to the MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided.

PART II - LEASING MANAGEMENT SERVICE (LMS)

INTRODUCTION

The purpose of the Leasing Management Service, hereinafter referred to as the “LMS,” is to provide a means by which a Participant may make offers of compensation to other Participants (acting as subagents, Lessee agents or in other agency and nonagency capacities authorized by law) in respect to properties exclusively listed by them and is a facility for the orderly correlation and dissemination of listing information among the Participants. Entitlement to compensation is determined by the cooperating Participant or Subscriber’s performance as procuring cause of a lease.

ARTICLE I **APPLICABILITY OF MLS RULES AND REGULATIONS**

The Rules and Regulations governing use of the LMS (Part II) are the same as the Rules and Regulations governing the MLS (PART I) and are herein incorporated, except as follows: (a) references to “sold data” shall be deemed references to “leased price”; (b) references to “FOR SALE” shall be references to “FOR LEASE”, (c) references to “SOLD” shall be references to “LEASED”, and (d) references to the “Participation Fees” shall refer to the LMS Participation Fees. Further, the definition of “Exclusive Agency Listing”, “Exclusive Right to Sell” and “Open Listing” shall, with respect to the LMS, refer to the lease of real property rather than the sale of real property. Participants and Subscribers to the MLS, but not the LMS, shall not be permitted to use the LMS. In addition, as necessary to effectuate the purpose of these Rules and Regulations, any other provision of Part I shall, when incorporated in this Part II, be construed to cover the lease of real property rather than the sale of real property.