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SECTION 1. LISTING PROCEDURES:

Listings of real or personal property of the following types located within the territorial jurisdiction of the Maui Board of REALTORS[®], Inc., taken by Participants (see Notes 1 and 2) shall be delivered to the Multiple Listing Service within five calendar days after all necessary signatures of seller(s) have been obtained. Failure to report on time will result in a fine (see section 6).

- a) Single family homes for sale or exchange.
- b) Vacant lots and acreage for sale or exchange.
- c) Two-family, three-family, and four-family residential buildings for sale or exchange.
- d) Condominium units, townhouses, or any other individual dwelling units in a multiple-unit structure or Planned Unit Development (PUD).

(New projects, new subdivisions, timeshare, and partial interests are excluded from this mandatory submittal rule.)

NOTE 1. The Multiple Listing Service 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 Service, although a typed, Data Input Form is required as approved by the Multiple Listing Service. However, the Multiple Listing Service, through its legal counsel:

1. May reserve the right to refuse to accept a listing form which fails to adequately protect the interest of the public and the Participants.
2. Assure that no listing form filed with the Multiple Listing Service establishes, directly or indirectly, any contractual relationship between the Multiple Listing Service and the client (buyer or seller).

The Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer cooperation and compensation to the other Participants of the Multiple Listing Service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's authorization to submit the agreement to the Multiple Listing Service.

3. The different types of listing agreements include:
 - a) exclusive right to sell
 - b) exclusive agency
 - c) open
 - d) net

NET LISTINGS are not accepted by the Service because they are deemed unethical and, in most states, illegal.

OPEN LISTINGS are not accepted except where required by law because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

The EXCLUSIVE RIGHT TO SELL LISTING is the conventional form of listing submitted to the Multiple Listing Service in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The EXCLUSIVE AGENCY LISTING also authorizes the listing broker, as exclusive agent, to offer cooperation and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell listings with named prospects exempted should be clearly distinguished in the remarks section of the Data Input Form from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted.

These definitions are provided to facilitate categorization of listings in MLS compilations. In any area of conflict or inconsistency, state law or regulation takes precedence. These definitions are premised on the existence of agency relationships between sellers and listing brokers. However, if state law permits brokers to list property, on either an exclusive or open basis, without establishing an agency relationship, listings may not be excluded from MLS compilations on the basis that the listing broker is not the seller's agent. Submission of such listings must be accompanied by the listing broker's disclosure that the listing broker is not the agent of the seller and such status shall be communicated to the other Participants as part of the property data information.

NOTE 2: The Multiple Listing Service does not regulate the type of listings its Members may take. This does not mean that the Multiple Listing Service will accept every type of listing.

NOTE 3: A Multiple Listing Service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

TYPES OF PROPERTIES: The following are the types of properties that may be published through the Service:

1. Residential -- mandatory
2. Residential Income -- mandatory
3. Condominium and Coop -- mandatory
4. Subdivided Vacant Land -- mandatory
5. Vacant Land and Ranch -- mandatory
6. Business Opportunity -- mandatory
7. Hotel-Motel -- mandatory
8. Industrial -- mandatory
9. Commercial Income -- mandatory
10. Original or Initial Sales of Developments (Projects) – mandatory
 - a) Participants representing developers are required to enter as “active” at least one model per phase and to report all closed sales for all new projects.
11. Timeshare and Partial Interests -- voluntary

Section 1.1 LISTINGS SUBJECT TO RULES AND REGULATIONS OF THE SERVICE: Any listing taken on a contract to be filed with the Multiple Listing Service is subject to the Rules and Regulations of the Service upon signature of the seller(s).

- a) The MLS Committee may request copies of contracts or change orders from the participant for the purpose of verifying Multiple Listing Service data only. MLS members are required to provide the information upon request.

Section 1.2 DETAIL ON LISTINGS FILED WITH THE SERVICE: A Listing Agreement or Data Input Form, when filed with the Multiple Listing Service by the listing broker, shall be complete in every detail, as required.

Section 1.3 EXEMPTED LISTINGS: If the seller refuses to permit the listing to be disseminated by the Service, the REALTOR® may then take the listing ("office exclusive") and such listing shall be filed with the Service, but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he/she does not desire the listing to be disseminated by the Service.

Section 1.4 CHANGE OF STATUS OF LISTING: Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and must be filed with the Service within five calendar days after the authorized change is received by the listing broker. Failure to report on time will result in a fine (see section 6).

Section 1.5 WITHDRAWAL OF LISTING PRIOR TO EXPIRATION: Listings of property may be withdrawn from the Multiple Listing Service by the listing broker before the expiration date of the listing agreement provided notice is filed with the Service.

If a property is withdrawn for fewer than 90 days and relisted by the same company, the original Multiple Listing Service number will apply.

Section 1.6 CONTINGENCIES APPLICABLE TO LISTINGS: Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants.

Section 1.7 LISTING PRICE SPECIFIED: The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings unless the property is subject to auction.

Section 1.8 LISTING MULTIPLE UNIT PROPERTIES: All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the Data Input Form.

Section 1.9 NO CONTROL OF COMMISSION RATES OR FEES CHARGED BY PARTICIPANTS: The Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

Section 1.10 EXPIRATION, EXTENSION, AND RENEWAL OF LISTINGS: Any listing filed with the Multiple Listing Service automatically expires on the date specified in the agreement unless renewed by the listing broker and notice of renewal or extension is filed with the Service prior to purging of the data records from the MLS system.

If a property is expired for fewer than 90 days and relisted by the same company, the original Multiple Listing Service number will apply.

If notice of renewal or extension is dated after the purge of the original listing, then a new listing must be secured for the listing to be filed with the Service. It will then be published as a new listing. Any extension or renewal of a listing must be signed by the seller(s) and be filed with the Service.

Section 1.11 TERMINATION DATE ON LISTINGS: Listings filed with the Service shall bear a definite and final termination date as negotiated between the listing broker and the seller.

Section 1.12 JURISDICTION: Any listing taken by a Maui Board of REALTORS® MLS Participant must be submitted to the MLS under which territorial jurisdiction the listing falls. By submitting a listing to a Corresponding Board (defined as any Board in Hawaii other than a Participant's Primary Board that is party to the Hawaii Association of REALTORS® Multiple Listing Service Reciprocal Agreement), a Participant agrees to be bound by the Corresponding Board's MLS Rules and Regulations. A Participant understands that failure to pay all fees/fines at a Corresponding Board in accordance with the Corresponding Board's Rules and Regulations may result in suspension of all MLS services at the Participant's Primary Board until all fees are paid.

Section 1.13 LISTINGS OF SUSPENDED PARTICIPANTS: When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Rules and Regulations, or other membership obligation except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective.

If a Participant has been suspended from the Board or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised in writing of the intended removal so that the suspended Participant may advise his/her clients.

Section 1.14 LISTINGS OF EXPELLED PARTICIPANTS: When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Board Bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS shall, at the expelled Participant's option, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective.

If a Participant has been expelled from the Board or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised in writing of the intended removal so that the expelled Participant may advise his/her clients.

Section 1.15 LISTINGS OF RESIGNED PARTICIPANTS: When a Participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised in writing of the intended removal so the resigned Participant may advise his/her clients.

SECTION 2. SELLING PROCEDURES

Section 2. SHOWINGS AND NEGOTIATIONS: Appointments for showings and negotiations with the seller for the purchase of listed property filed with the Multiple Listing Service shall be conducted through the listing broker except under the following circumstances:

- a) the listing broker gives cooperating broker specific authority to show and/or negotiate directly, or;
- b) after reasonable effort, the cooperating broker cannot contact the listing broker or his/her representative. However, the listing broker, at his/her option, may preclude such direct negotiations by cooperating brokers.

Section 2.1 PRESENTATION OF OFFERS: The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

Section 2.2 SUBMISSION OF WRITTEN OFFERS: The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

Section 2.3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER: The cooperating broker (subagent or buyer agent) or his/her representative has the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

Section 2.4 RIGHT OF LISTING BROKER IN PRESENTATION OF COUNTER OFFERS: The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating broker is a subagent.) However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instruction.

Section 2.5 REPORTING SALES TO THE SERVICE: Sales shall be reported immediately to the Multiple Listing Service by the listing broker unless the negotiations were carried on under Section 2(a) or 2(b) hereof, in which case the cooperating broker shall report, sending a copy to the listing broker within 24 hours after acceptance. Failure to report on time will result in a fine (see section 6). All mandatory property types sold prior to required submittal date (including assisted sales) must be submitted to MLS.

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

Section 2.6 REPORTING RESOLUTIONS OF CONTINGENCIES: The listing broker shall report to the Multiple Listing Service immediately that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement canceled.

Section 2.7 ADVERTISING OF LISTING FILED WITH THE SERVICE: A listing shall not be advertised by any Participant, other than the listing broker, without the prior consent of the listing broker.

Section 2.8 REPORTING CANCELLATION OF PENDING SALE: The listing broker shall report immediately to the Multiple Listing Service the cancellation of any pending sale and the listing shall be reinstated.

Section 2.9 CALCULATING DAYS ON MARKET: The days on market (DOM) will be calculated from the List Date until the time that the property is reported as "closed escrow."

SECTION 3. REFUSAL TO SELL

Section 3. REFUSAL TO SELL: If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service.

SECTION 4. PROHIBITIONS

Section 4. INFORMATION FOR PARTICIPANTS ONLY: Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

Section 4.1 "FOR SALE" SIGNS: Only the "For Sale" signs of the listing broker may be placed on a property.

Section 4.2 "SOLD" SIGNS: Only the "Sold" sign of the listing broker may be placed on a property.

Section 4.3 SOLICITATION OF LISTING FILED WITH THE SERVICE: Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 21 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations.

SECTION 5. DIVISION OF COMMISSIONS

Section 5. COOPERATIVE COMPENSATION SPECIFIED ON EACH LISTING: The listing broker shall specify, on each listing filed with the Multiple Listing Service, the compensation offered to other Multiple Listing Service Participants for their services in the sale of such listing.

NOTE 1: In filing a property with the Multiple Listing Service of a Board of REALTORS®, the Participant of the Service is making blanket unilateral offers of cooperation to the other MLS Participants, and shall therefore specify on each listing filed with the Service, the compensation being offered to the other MLS Participants. Specifying the compensation on each listing is necessary because the cooperating broker has the right to know what his/her compensation shall be prior to his/her endeavor to sell.*

The listing broker retains the right to determine the amount of compensation offered to subagents and to buyer agents, which may be the same or different.

This shall not preclude the listing broker from offering any MLS Participant compensation other than the compensation indicated on any listing as published by the MLS, provided the listing broker informs the other broker in writing in advance and, provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

The Board Multiple Listing Service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his/her listing contract, and the Board Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The Board Multiple Listing Service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

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

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

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

NOTE 3: The Multiple Listing Service shall make no rule on the division of commissions between Participants and non-participant. This should remain solely the responsibility of the listing broker.

Section 5.1 PARTICIPANT AS PRINCIPAL: If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any interest in property, the listing of which is to be disseminated through the Multiple Listing Service, that person shall disclose that interest when the listing is filed with the Multiple Listing Service, and such information shall be disseminated to all Multiple Listing Service Participants.

Section 5.2 PARTICIPANT AS PURCHASER: If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed in writing to the listing broker not later than the time an offer to purchase is submitted to the listing broker.

Section 5.3 DUAL OR VARIABLE RATE COMMISSION ARRANGEMENTS: The existence of a dual or variable rate commission arrangement (i.e., one in which the seller agrees to pay a specified commission if the property is sold by the listing broker without assistance, and a different commission if the sale results through the efforts of a cooperating broker; or one in which the seller agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker, and a different commission if the sale results through the efforts of a seller) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquires from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale that results through the efforts of the seller.

SECTION 6. SERVICE CHARGES

Section 6. SERVICE FEES AND CHARGES: The Board will accept either one company check or individual checks from agents but it is the responsibility of the Participant. to ensure that MBR receives full payment or notifies MBR of all inactive members. If an MLS Participation Fee or MLS book check is returned (or a charge card is declined) a replacement payment, plus the \$25.00 returned check fee, must be received by the first business day of the next quarter. If payment is not received, the participant will be considered delinquent and any applicable late fees and/or reinstatement fees will be owed in addition to the MLS/Book fees and the returned check fee.

The following service charges for operation of the Multiple Listing Service are in effect to defray the costs of the Service and are subject to change from time-to-time in the manner prescribed:

- a) Initial MLS Participation Fee: An applicant for participation in the Service shall pay an application fee of \$320, with such fee to accompany the application.
- b) Recurring MLS Participation Fee: The quarterly participation fee of each Participant shall be an amount equal to \$120 times each salesperson and licensed or certified appraiser who has access to and use of the Service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant.
- c) Reactivate MLS Participation Fee for Participant (office) that went Inactive Voluntarily from MLS: An applicant who has been inactive with the Service for up to 180 days, and is reactivating participation in the Service, shall pay an application fee of \$160, with such fee to accompany the application. An applicant who has been inactive with the Service for 181 or more days, and is reactivating participation in the Service, shall pay an application fee of \$320, with such fee to accompany the application.
- d) Discontinuation of MLS Services for Partial or Non-Payment of Recurring MLS Participation Fee: A current MLS participant (office) that has not paid its recurring MLS participation fee in full for all members by the first business day of the next quarter will be considered discontinued with MLS. All MLS services for the office and all active members will be discontinued until payment is made or the Participant (office) submits a copy of the Department of Commerce and Consumer Affairs Real Estate Change Form to MBR placing the non-paid member(s) inactive.
- e) Reactivate MLS Participation Fee for Participant (office) that was Discontinued from MLS:
 1. An applicant who has been discontinued with the Service for 1 day to 90 days, and is reactivating participation in the Service shall owe \$25.00 per non-paid member(s) on the first business day of the new quarter and \$25.00 for each additional month they are late, in addition to the pro-rated quarterly recurring fee. (The \$25.00 late fee shall also apply if the non-paid member goes inactive without the applicant notifying MBR before the new quarter has started. Inactive members will not owe the quarterly recurring fee.)
 2. An applicant who has been discontinued with the Service for 91 to 180 days, and is reactivating participation in the Service, shall pay an application fee of \$160 (which will cover all members), in addition to the pro-rated quarterly recurring fee.

3. An applicant who has been discontinued with the Service for 181 or more days, and is reactivating participation in the Service, shall pay an application fee of \$320 (which will cover all members), in addition to the pro-rated quarterly recurring fee.
- f) Listing Fee for Mandatory Property Types:
 Broker Load: No charge
 Board Load: \$25
 1. Lanai and Hana MBR Office(s) Listing fees
 Broker Load: No charge
 Board Load: No charge
 - g) Listing Fee for Voluntary Property Types:
 Broker Load: \$15
 Board Load: \$40
 - h) Listings Sold prior to required submittal date (it is mandatory that all mandatory property types be submitted to MLS):
 Broker Load: No charge
 Board Load: No charge
 - i) Listing Fee for Original or Initial Sales of Development (Projects) – Mandatory (only one model type, per listing, per development, will be permitted):
 Broker Load: No charge
 Board Load: \$25
 - j) Reciprocal Listing Fees:
 Broker Load: \$25
 Board Load: \$50
 - k) Duplicate Listing Fees (on different property types only) :
 Broker Load: \$10
 Board Load Reciprocal Listing: \$50
 - l) Change Orders: \$0
 - m) Back on Market within 3 months: \$0
 - n) Extension of Listings within 3 months: \$0
 - o) Fines
 1. The board must be notified within 5 calendar days of all new listings and status changes being signed by all parties or a late reporting fine will be assessed of \$20 for the first month and \$10 for each additional month for the following circumstances:
 - a. Opened escrows
 - b. Closed escrows with open escrow never reported
 - c. Closed escrow
 - d. Withdrawn listings
 - e. Price changes
 - f. New Listings
 - g. Listing Extensions

2. DESIGNATED REALTORS® will receive written notification (via fax or mail) of any data input errors by their office. If the data input error is not corrected within ten (10) calendar days from notification, a statement for a \$100 fine will be sent to the DESIGNATED REALTOR®.

p) Photo Scanning for Mandatory Property Types:

Broker Load: No charge

Board Load: First photo free, each additional photo \$2.50 each.

q) MLS Access Fees

1. MBR Affiliate Member Appraiser MLS Access Fee Charges REALTOR® Workstation "Sold Information Only" Viewer

a. The MBR Affiliate Member Appraiser of each individual office will pay a \$50 set-up fee (should the office discontinue service voluntarily or be discontinued for non-payment, the \$50 set-up fee is owed to reactivate).

b. No individual agent charge per month.

c. The MBR Affiliate Member Appraiser of each individual office will pay a monthly access fee of \$40 per month (payable quarterly).

2. Non-Maui Board Member MLS Participants

a. The universal access to services component of Board of Choice is to be interpreted as requiring that MLS Participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing Realtors® not holding primary or secondary membership locally, fees, dues, or charges that exceed those or, alternatively, that are less than those charged Participants holding such memberships locally, or additional fees to offset actual expenses incurred in providing MLS services.

b. All MLS fees, dues, and charges, including, but not limited to, initial participation fees, recurring participation fees, listing origination fees, subscription fees, etc., may be assessed to MLS Participants or to individual users or subscribers. This does not preclude an MLS Participant from being reimbursed by affiliated licensees for fees or charges incurred on their behalf pursuant to any in-house agreement that may exist. If direct billing of subscribers is utilized, the ultimate responsibility for delinquent dues, fees, and charges is that of the Participant, unless the MLS, by adoption of appropriate rules or bylaws, makes subscribers exclusively responsible for such financial obligations.

c. Fees

1. The MLS Participation fees for non-Maui Board Member MLS Participants will be \$180.00 per quarter per agent.

2. Monthly MLS Book fees for non-Maui Board Member MLS Participants, and MLS Participants with another Board within the state, will be \$90.00 per quarter (pro-rated monthly), including delivery charges.

r) Monthly MLS Book (optional): \$45 per quarter

Section 6.1 WAIVER: An MLS Participant may obtain a waiver of the payment of Service fees and charges for any licensed person associated with the MLS Participant's firm.

- a) A waiver is subject to the following conditions:
1. The licensee must be eligible for a waiver according to the MLS Rules and Regulations.
 2. Written application is submitted to the MLS Participant's Board on the current form provided by the Service.
 3. The term of the waiver shall not exceed one (1) year; it shall expire on the last day of each calendar year.
 4. New applications required annually by MLS Participant to continue waiver eligibility.
- b) Those licensed persons who shall be eligible for a waiver of Service fees and charges are defined as those whose professional position in the firm requires an active real estate license, but who do not actively participate in any of the functions intended to result in a sale or lease (rentals) of real property. (Arranging showings of property, actual showing of property, or any other sales related activity, would render the licensee ineligible). Further, they do not receive any direct income, whether by way of commission, wages, or referral fees, from the sale, lease (rentals), or purchase of real estate. Such persons may include, but are not limited to*:
1. Property Managers who are required to be licensed by law;
 2. Office Personnel who are required to be licensed by law. Duties in this case would be limited to giving out listing information over the phone or in person;
 3. Corporate officers, directors, and/or shareholders associated with an MLS Participant who do not actively participate in the sales activity of the firm and who are required to be licensed by law;
 4. Partners associated with an MLS Participant who do not actively participate in the sales activity of the firm and who are required to be licensed by law.
- *Note exception to b): Time Share agents, who are selling only time shares for one developer and licensed to their respective projects, and who are not engaged in any other real estate sales activities, may apply for an MLS waiver of service fees and charges.
- c) The procedure for obtaining a waiver is as follows:
1. MLS Participant submits the waiver application to the MLS Committee for review. A decision is made to either approve or deny the waiver by a majority vote of the MLS Committee.
 2. Notification of approval or denial is forwarded to the MLS Participant immediately after the MLS Committee's decision.
 3. Appeals to the MLS Committee's decision may be made to the Executive Committee of the Maui Board of REALTORS[®], whose decision shall be final. Appeals must be made in writing within fourteen (14) calendar days from notification to the Designated REALTOR[®] of the decision of the MLS Committee, and must state the reason(s) for the appeal. Appeals are reviewed at the regularly scheduled Executive Committee Meetings.

- d) In the event the position of the eligible licensee changes and he/she is no longer eligible, the MLS Participant shall immediately notify the Maui Board of REALTORS® and voluntarily terminate the waiver of fees and charges. In the event the waiver herein granted shall be revoked by the Maui Board of REALTORS® for a change in eligibility or for a violation of the waiver privilege, the Maui Board of REALTORS® has the authority to impose the revocation retroactive to the date of the granting of the waiver, and the MLS Participant shall be liable for all Service fees and charges accrued against the licensee during the waived period.

SECTION 7. COMPLIANCE WITH RULES

Section 7. COMPLIANCE WITH RULES: The following action may be taken for noncompliance with the rules:

- a) For failure to pay any service charge or fee by the date due, the Service shall be discontinued until service charges or fees are paid in full.
- b) For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

Section 7.1 APPLICABILITY OF RULES TO USERS AND/OR SUBSCRIBERS: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these Rules and Regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the Rules and Regulations. Further, failure of any user or subscriber to abide by the Rules and/or any sanctions imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or subscribers affiliated with the Participant.

SECTION 8. MEETINGS

Section 8. MEETINGS OF MLS COMMITTEE: The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

Section 8.1 MEETINGS OF MLS PARTICIPANTS: The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

Section 8.2 CONDUCT OF THE MEETINGS: The Chairperson, or Vice Chairperson, shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his/her failure to do so, by the Committee.

SECTION 9. ENFORCEMENT OF RULES OR DISPUTES

Section 9. CONSIDERATION OF ALLEGED VIOLATIONS: The Committee shall give consideration to all written complaints from Participants having to do with violations of the Rules and Regulations.

Section 9.1 VIOLATIONS OF RULES AND REGULATIONS: If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the Bylaws and the Rules and Regulations of the Board of REALTORS® within twenty (20) days following receipt of the Committee's decision. If the Multiple Listing Committee has a procedure established to conduct hearings, the decision of the Multiple Listing Committee tribunal may be appealed to the Board of Directors within twenty (20) days of the tribunal's decision being rendered.

Section 9.2 COMPLAINTS OF UNETHICAL CONDUCT: All other complaints of unethical conduct shall be referred by the Committee to the Executive Officer of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's Bylaws.

SECTION 10. CONFIDENTIALITY OF MLS INFORMATION

Section 10. CONFIDENTIALITY OF MLS INFORMATION: Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants, and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

Section 10.1 MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION: The Service does not verify information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

Section 10.2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION: Board Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS, including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Board Members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office, or firm, except as otherwise provided in these Rules and Regulations.

SECTION 11. OWNERSHIP OF MLS COMPILATIONS* AND COPYRIGHTS

Section 11. By the act of submission of any property listing data to the Board MLS, the Participant represents that he/she has been authorized to grant, and also thereby does grant, authority for the Board to include the property listing data in its copyrighted MLS compilation and also in any statistical report on "Comparables."

Section 11.1 All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Maui Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the Maui Board of REALTORS®.

Section 11.2 Each Participant shall be entitled to receive from the Maui Board of REALTORS® a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a

licensee (including licensed or certified appraisers) with such Participant with one copy of such Compilation.**

Participants shall have the right to use the MLS Compilations in accordance with these rules.

- * The term MLS Compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer data base, card file, or any other format whatever.
- ** This section should not be construed to require the Participant to receive a copy of the MLS Compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS, and who does not, at any time, have access to nor use of the MLS information or MLS facility of the Board.

SECTION 12. USE OF COPYRIGHTED MLS COMPILATIONS

Section 12. DISTRIBUTION: Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Board of REALTORS[®], and shall not distribute any such copies to persons other than subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation," or "Membership," or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

Section 12.1 DISPLAY: Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.

Section 12.2 REPRODUCTION: Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

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

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with

the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

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 of Board-owned Multiple Listing Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

- * It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective 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 accord with the prospective purchaser's expressed desires and ability to purchase; whether the reproductions were made on a selective basis; and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

SECTION 13. USE OF MLS INFORMATION

Section 13. LIMITATIONS ON USE OF MLS INFORMATION: Use of information from MLS compilation of current listing information, from the Board's "Statistical Report," or from any "sold" or "comparable" report :of the Board or MLS for public mass-media advertising :by an MLS Participant or in other public representations, may not be prohibited.

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

NOTE: This representation is based in whole or in part on data supplied by the Maui Board of REALTORS[®], or its Multiple Listing Service for the period (date) through (date). Neither the Board nor its MLS guarantees or is in any way responsible for its accuracy. Data maintained by the Board or its MLS may not reflect all real estate activity in the market.

SECTION 14. CHANGES IN RULES AND REGULATIONS:

Section 14. CHANGES IN RULES AND REGULATIONS: Amendments to the Rules and Regulations of the Service shall be by a majority vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Maui Board of REALTORS®.

SECTION 15. POLICY STATEMENTS APPROVED BY THE NAR BOARD OF DIRECTORS:

a) Definition of MLS "Participation" :

1. The term "Participant" in the Maui Board of REALTORS® Multiple Listing Service is defined, as follows:

Where the term REALTOR® is used in this explanation of policy in connection with the word 'Member' or the word 'Participant,' it shall be construed to mean the REALTOR® principal or principals, of this or any other Board, or a firm comprised of REALTORS® principals participating in a Multiple Listing Service owned and operated by the Board. It shall not be construed to include individuals other than a principal or principals who are REALTORS® Members of this or any other Board, or who are legally entitled to participate with Board membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS 'Membership' or 'Participation' unless they hold a current, valid Hawaii real estate broker's license and are capable of offering and accepting cooperation and compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey 'Participation' or 'Membership' or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law. Additionally, the foregoing does not prohibit Board Multiple Listing Services, at their discretion, from categorizing non-principal brokers, sales licensees, licensed and certified appraisers and others affiliated with the MLS 'members' or 'Participants' as 'users' or 'subscribers' and, holding such individuals personally subject to the Rules and Regulations and any other governing provisions of the MLS and to discipline for violations thereof.

Where the terms 'subscriber' or 'user' are used in connection with a Multiple Listing Service owned or operated by the Maui Board of REALTORS®, they refer to non-principal brokers, sales licensees, and licensed and certified real estate appraisers affiliated with an MLS Participant and may, as a matter of local option, also include a Participant's affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS Participant or the Participant's licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the Rules and Regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the Participant's ultimate responsibility for ensuring compliance with the Rules and Regulations of the MLS by all individuals affiliated with the Participant.

Under the 'Board of Choice' policy, MLS participatory rights shall be available to any REALTORS® (principal) or any firm comprised of REALTORS® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other Participants; agreement to submit to ethics hearings with other Participants; and payment of any MLS dues, fees, and charges.

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS Participatory rights be available to REALTORS® principals, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing REALTORS® not holding primary or secondary membership locally fees, dues or charges that exceed those or, alternatively, that are less than those charged Participants holding such memberships locally or additional fees to offset actual expenses incurred in providing MLS services.

None of the foregoing shall be construed as requiring a Board to grant MLS participatory rights, under Board of Choice, where such rights have been previously terminated by action of that Board's Board of Directors.

SECTION 16 – INTERNET DATA EXCHANGE (“IDX”) RULES

Approved by Board of Directors of the Realtors® Association of Maui, Inc.- May 23, 2003
(Taken from NAR IDX Model Provisions, dated November, 2001)

These display requirements may change from time-to-time – IDX Participants are required to make changes within seven (7) days from date of notification.

Section 16 – IDX Defined: IDX affords MLS Participants the option of authorizing display of their active listings on other Participants' Internet web sites.

Section 16.1 – Authorization: Participants' consent for display of their active listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download or frame the aggregated MLS data of other Participants.

Section 16.2 – Participation: Participation in IDX is available to all MLS Participants who are Realtors® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. This requirement can be met by maintaining an office or Internet presence from which Participants are available to represent real estate sellers or buyers (or both).

Section 16.3 – Display: Display of listing information pursuant to IDX is subject to the following rules (the following rules were optional, and are the ones approved to apply to RAM's IDX program; the numbers were renumbered accordingly):

Section 16.3.1 – Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. (RAM clarification note: Designated data fields and photos shall be the same as those provided by RAM WebSearch in each property type. All other fields are prohibited.)

Section 16.3.2 – Participants shall determine which listings or the types of listings they will display on their websites. Examples include property type (“condos,” “single family detached,” “multi-family,” etc.), price, or location (“downtown”).

- Section 16.3.3 – Participants shall not modify or manipulate information relating to other Participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.)
- Section 16.3.4 – All listings displayed pursuant to IDX shall identify the listing firm. (RAM clarification note: Minimum font size of 10.)
- Section 16.3.5 – Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant's consent and control and the requirements of state law and/or regulation.
- Section 16.3.6 – Listing information downloaded and/or otherwise displayed pursuant to IDX shall be limited to properties listed on an exclusive right to sell basis.
- Section 16.3.7 – All listings displayed pursuant to IDX shall show the MLS as the source of the information.
- Section 16.3.8 – Participants (and affiliated licensees, if applicable) must refresh all downloads and refresh all data at least once every seven (7) days.
- Section 16.3.9 – Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing.
- Section 16.3.10 – The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MLS.
- Section 16.3.11 – Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs.
- Section 16.3.12 – No portion of the IDX database shall be used or provided to a third party for any purpose other than those expressly provided for in these rules.
- Section 16.4 – Service Fees and Charges: Service fees and charges for participation in IDX shall be as established annually by the Board of Directors of the Realtors® Association of Maui, Inc.

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