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**MULTIPLE LISTING SERVICE OF  
SOUTHERN ARIZONA**

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## **POLICY STATEMENTS**

**REVISED: DECEMBER 16,2021**  
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## **Operational Philosophy**

MLSSAZ is a volunteer driven organization. As such, it relies on the volunteers to determine the strategic direction and collect guidance from the Subscriber base in the form of committees, task forces, and advisory groups to provide quality service.

The term "committee" as used in these Policy Statements shall be deemed to include the terms "work group," "sub-committee," "advisory group," "task force," "PAG," or any other group formed under the auspices of MLSSAZ. *(Amended 12/2019)*

## ***It's Our Organization!***

### **Policy #1: Policy Purpose & Formulation**

Policy statements are to be used for developing guidelines and standards for internal operations. Policy statements are ongoing and are reaffirmed by the Board of Directors each year. Any new policies must be approved by the Board of Directors sitting at the time of the recommendation of the new policy. Policy recommendations may be made by staff, committee chairs, the Board of Directors, any Participant and/or Subscriber of the Service. Recommended policy changes must be presented, in writing, to the Chief Executive Officer prior to presentation to the Board of Directors for approval/disapproval.

### **Policy #2: Requests for Information**

Requests for information from the general public, written or verbal, shall be referred to the President and Chief Executive Officer. The President or the Chief Executive Officer, or the Chief Executive officer's designee pertinent to a specific occasion, shall be the only authorized spokesperson(s) for the Service. No other individuals shall speak for the Service on matters affecting the Service or its Participants without prior written approval of the President or Chief Executive Officer.

### **Policy #3: Anti-Trust Compliance**

The Multiple Listing Service of Southern Arizona has not and will not establish or maintain fixed or recommended commission rates or fees. Commission rates or fees are a matter of negotiation between the parties (the principal and the broker) and MLSSAZ will not interfere in those negotiations or inhibit in any way the freedom of the parties to negotiate. *(Amended 12/2019)*

### **Policy #4: Confidentiality**

All Committee members, task-force members, and members of the Board of Directors have an obligation to keep the confidential matters of MLSSAZ confidential. The meetings of Committees, task forces, and the Board of Directors are open to Participants of the MLS and their participating Subscribers under Policy #21, but those Participants and Subscribers are generally not bound by an obligation of confidentiality to MLSSAZ. Consequently, Committee and task-force members and Directors must alert the presiding officer of any open meeting to the confidential nature of a matter before disclosing or discussing any confidential information in such a meeting. The presiding officer should then gavel the meeting into executive session for the duration of the discussion of the confidential matter, allowing Participants and Subscribers to return to the meeting after the discussion is concluded. In the alternative, the presiding officer may postpone the discussion of the confidential matter until the end of the meeting, excusing all guests after non-confidential matters are resolved and concluding the meeting with the executive session. At the beginning of any executive session of the Board of Directors (but not during any other meeting), a Director may challenge the presiding officer's decision to enter executive session by moving to end the executive session. Deliberation on this motion may include disclosure of the nature and content of information believed to be confidential, and the Board of Directors may then determine whether to continue in executive session. *(Revised 12/2022)*

### **Policy #5: Smoking Policy**

In accordance with Arizona law, smoking is strictly prohibited at all MLSSAZ events and in all Association facilities and within 20 feet of entrances to said events or facilities.

**Policy #6: Products and Services Endorsements/Group Discounts**

All requests to MLSSAZ to endorse products or services or to provide group discounts to Participants shall be referred to the appropriate committee(s) for approval subject to input and approval by the Chief Executive Officer. All requests must meet the following criteria:

- A. Requests/offers shall be made in writing.
- B. Proposed product or service shall fit within the MLSSAZ current Vision and Mission statements.
- C. Participants must receive a pricing structure that is a group discount due their being an MLSSAZ Participant. If the pricing structure offered is readily available to the general public, MLSSAZ shall decline the offer.
- D. Proposed products shall not be in competition with items sold in the MLSSAZ store.
- E. Consideration should include any potential legal or ethical responsibilities and risks for MLSSAZ, its employees and Participants that may be incurred for promoting the product or service.
- F. There shall not be a monetary commitment needed from MLSSAZ to promote the product, service or group discount.
- G. The product or service shall be competitive in quality and cost with similar products and services in the industry.
- H. The product or service must meet the needs of the Participants.
- I. Length of term for the offer must be stated in writing. Provisions for renegotiating the offer at the end of each term should be provided.
- J. The provider must state in writing their procedure for handling customer complaints.

**Policy #7: Donations and Sponsorships**

MLSSAZ supports charitable efforts and wishes to contribute where appropriate. Donations will be at the discretion of the Board of Directors. *(Amended 12/2019)*

**Policy #8: Fees Payable**

Fees for all primary subscribers shall be payable annually in advance not later than June 30 of each year. Fees shall be computed from the day a new subscriber is granted access to the system and shall be prorated for the remainder of the year. Collection procedures are outlined in Article V, Section 4 (Nonpayment of Financial Obligations) of the Multiple Listing Service Bylaws. *(Amended 12/2021)*

- A. Fees not received by the posted due date will be subject to a late fee as established in the schedule of fees. *(Amended 12/2019)*
- B. Applicants reapplying after 90 days of termination shall pay the application fee established in the Schedule of Fees in addition to any outstanding monies owed by the Applicant. *(Amended 12/2019)*
- C. Applicants reapplying because of termination for nonpayment of financial obligations shall pay the application fee established in the Schedule of Fees in addition to any outstanding monies owed by the Applicant. *(Amended 12/2019)*

Fees for MLS Only/Board of Choice shall be payable annually in advance not later than June 30 of each year. Subscriptions for MLS Only/Board of Choice subscribers shall automatically end if fees are not paid in full by June 30. *(Adopted 12/2019)*

Publication of fees and assessments shall be located on the MLSSAZ Schedule of Fees and Schedule of Fines. All application and annual fees are non-refundable. *(Amended 12/2019)*

**Policy #9: This policy was combined with Policy 40**

**Policy #10: Collection Policy**

MLSSAZ provides services to their Participants and/or Subscribers. Because MLSSAZ has made commitments to outside vendors to provide those services to their Participants and/or Subscribers, the fees charged to the Participants and/or Subscribers must be collected in a fair, consistent and timely fashion to ensure the ability of the MLSSAZ to meet its respective obligations. Collection procedures are outlined in Article V, Section 4 (Nonpayment of Financial Obligations) of the Multiple Listing Service Bylaws.

- A. Any returned checks are subject to a \$35.00 service charge. One attempt will be made to collect on a Non-Sufficient Funds 'NSF' check. Payments not received within 15 calendar days of notice to the member will be submitted to the Pima County Attorney for bad check collection and all MLS Services will be suspended. *(Amended 12/2019)*
- B. Payments not received on the posted due date will be subject to a \$75 late fee. *(Amended 12/2019)*

**Policy #11: Office Initiation Fee**

The Board of Directors may adopt an Office Initiation Fee in a reasonable amount. Office Initiation Fees are non-refundable. Publication of such fee shall be located on the Schedule of Fees. *(Amended 12/2019)*

**Policy #12: Establishment of Product or Service Cost**

Products and Services are to be sold to Participants and/or Subscribers at prices to reflect at least the actual cost to MLSSAZ, including staff, space and operational expenses. *(Amended 12/2019)*

**Policy #13: Operating and Reserve/Investment Account Funds**

Sums placed in checking, savings, money market or Reserve/Investment Accounts shall be deposited as per this policy as stated below. All sums placed in Reserve/Investment Accounts shall be a continuing item placed on the balance sheet, shall be so identified, and shall be utilized only for MLSSAZ operations as determined by the Board of Directors by majority vote.

In the event the Board of Directors determines that Reserve/Investment Account Funds are necessary for MLSSAZ operations, said funds shall be strictly utilized for and to the purpose so outlined under the auspices of the name of the account. In no event shall these funds be in any way encumbered or utilized in any other fashion. The Chief Executive Officer shall be responsible for and have authority to invest all MLSSAZ funds, subject to Board approval. *(Revised 10/2020)*

**Policy #14: Capital Operating Reserve Account**

A Capital Operating Reserve Account will be established to meet the needs of MLSSAZ providing the resources necessary for non-budgeted expenses that may provide benefit to the participants and subscribers. This account will be capped at \$200,000 at any one time with no more than \$75,000 being placed in the fund in any given fiscal year.

A majority vote of the MLSSAZ Board of Directors is required for any use of the funds. These designated funds will not be invested with an outside investment management firm. *(Adopted 11/2020)*

**Policy #15: Reserves**

At least fifty percent (50%) of net income at the end of the year, as determined by the Annual Audit, shall be placed in a Reserve/Investment Account. In the event that the Reserve/Investment Account reaches an amount equal to six (6) months of operating expenses, any amounts in excess of the reserve requirement shall be paid to the Shareholder in the form of a dividend. Should the MLSSAZ Board of Directors determine a business need for those amounts in excess of the reserve requirement, that business need shall be identified during the annual budget process and approved by the Shareholder Board of Directors in conjunction with the approval of the MLSSAZ Annual Budget. If these requirements are met, funding the identified business need shall supersede the dividend requirement for that calendar year. *(Revised 10/2020)*

**Policy #16: Access to Legal Counsel**

The President and Chief Executive Officer are the only individuals authorized to directly contact MLS Legal Counsel. Should there be a necessity for individuals or committees to meet with legal counsel, prior arrangements must be made through the Chief Executive Officer or the President. Should an unauthorized individual contact legal counsel without prior approval, the individual will be billed in the amount incurred from that contact, and subject to the Collection Policy. *(Amended 12/2019)*

**Policy #17: Contract/Encumbrances**

The President and the Chief Executive Officer, subject to the approval of the Board of Directors, shall be the only individuals authorized to enter into contracts or agreements, which incur financial or other liabilities to the MLS. When outside facilities are required for use by any committee, approval must be obtained from the President or the Chief Executive Officer.

**Policy #18: Bid Policy  
General Products/Services**

The process of seeking and retaining providers of general products/services (such as one-time expenses/upgrades and local utilities) will be as follows:

- A. The Chief Executive Officer and Staff will research providers based on their professional knowledge of necessary requirements.
- B. If a product or service is over \$15,000.00, at least three bids will be presented as part of the recommendation providing there are three providers of equal quality available for required product/service.
- C. Criteria for recommendation of provider will take the following items into consideration: Quality of service, timely responsiveness to staff and cost
- D. The Chief Executive Officer and staff will present recommendations through the following process:
  1. Committee responsible, if applicable
  2. Executive Committee
  3. Recommendation will then go to the Board of Directors for approval.
- E. It will be determined by the Chief Executive Officer, on a periodic basis if the need/benefit of rebidding any product or service either proposed or existing is necessary. In no way (except in the case of a monopolized utility) shall a product or service enjoy an ongoing relationship with MLSSAZ or any subsidiary for more than 3 years from date of latest contract without such a review.

*(Amended 12/2019)*

**Long Term Products/Services**

The process of seeking and retaining long term providers of products/services (such as MLS Database software, lockbox service, etc.) will be as follows:

- A. The Chief Executive Officer and Staff will research providers based on their professional knowledge of necessary requirements.
- B. At least three providers will be reviewed providing there are three providers of equal quality available for required product/service.
- C. Criteria for recommendation of provider will take the following items into consideration: Quality of service, timely responsiveness to staff and cost.
- D. The Chief Executive Officer and Staff will present recommendations through the following process:
  1. Committee responsible, if applicable
  2. Executive Committee
  3. Recommendation will then go to the Board of Directors for approval.

- E. Prior to the renewal/extension of a contract, the Chief Executive Officer shall review if the need/benefit of rebidding any product or service either proposed or existing is necessary. In no way shall a product or service enjoy an ongoing relationship with MLSSAZ or any subsidiary for more than 6 years from date of latest contract without a review.

*(Adopted 12/2019)*

**Policy #19: President and President-Elect Travel**

Budgeted travel expenses and registration fees for the President and President-Elect shall be established in the annual budget for attendance at the following meetings unless funding is received from another funding source:

- NAR Annual Convention
- NAR Mid-Year Meeting & Legislative Conference
- Council of Multiple Listing Services Annual Conference
- NAR iOi (Innovation, Opportunity and Investment) Summit
- NAR Leadership Summit (President-Elect)

And any other travel requirements in line with the responsibilities of carrying out the duties of the office of President and President-Elect, as approved from time to time by the Board of Directors. Reimbursed items will include lodging, coach-air fare, ground transportation, and other actual reasonable expenses. To be reimbursed, the President and President-Elect must attend a minimum of the MLS Association Executives Session, Multiple Listing Issues and Policy Forum & Committee, Multiple Listing Service Forum (1500 + Participants or Regional MLS), AAR Caucus, and the Region 11 Caucus, when applicable. If the President or President-Elect serves as a member of an NAR Committee, attendance at said committee meetings shall supersede the requirement to attend the required meetings if a conflict in scheduling occurs.

(Documentation of expenses must be submitted within thirty (30) days after the expense was incurred.)

All other travel and/or per diem expense requests for the President, President-Elect or delegate of MLSSAZ may be approved by the Chief Executive Officer or at the Chief Executive Officer's recommendation of approval by the Board of Directors. Anyone accepting such funding shall be obligated to attend and represent MLSSAZ at those meetings and/or programs that are the subject of the request. *(Amended 2/2020)*

**Policy #20: Committee or Task Force Communications**

Any and all communication from a committee or task force to any individual(s) regarding those functions, responsibilities, programs, activities and meetings shall be coordinated through the Chief Executive Officer or staff liaison designated by the Chief Executive Officer. *(Revised 12/2019)*

Any committee or task force wishing to promote a function through a News or Press Release shall make such requests to the Chief Executive Officer and said release shall be written and released by the Chief Executive Officer. Under no circumstances are any committees or task forces allowed to disseminate any information to the public, i.e., print media, radio, TV, or in any other manner.

**Policy #21: Meetings**

Participants of the MLS and their participating Subscribers may attend meetings of the Board of Directors and MLSSAZ committee and task-force meetings as guests. This policy does not apply to hearings, executive sessions called for confidential matters (as described in Policy #4), or meetings where the MLSSAZ Board of Directors has expressly approved a closed meeting or deliberation. *(Revised 12/2021)*

**Policy #22: Board of Directors Agenda Items**

Items to be placed on the Board of Directors Agenda shall be submitted to the Chief Executive Officer at least (7) days prior to the meeting. Any item that is not on the agenda will not be discussed unless it is determined by the President or Chief Executive Officer to be of an emergency nature. If any person requesting the placement of an item on the agenda disagrees with the decision of the President or the



Chief Executive Officer, the item will require a two-thirds vote of the Directors present to be placed on the agenda.

A Consent Agenda shall be included as part of regular meeting agendas for the Board of Directors of MLSSAZ. It will include items that are informational, routine, or procedural which require no action, such as, but not limited to: Previous Board meeting reports, Committee meeting reports, Association Liaison reports and Senior Staff reports. *(Adopted 12/2019)*

**Policy #23: Staff Liaison/Meeting Schedule**

The Chief Executive Officer shall assign a staff liaison to all committees. Regularly scheduled committee meetings will be held at the MLS office or virtually and the Committee Chair shall make arrangements for meetings through the assigned staff liaison. The staff liaison will be responsible for notifying committee members of meeting dates and times, notices, taking and preparing minutes of meetings and maintaining committee files

**Policy #24: Coordination of MLS Activities**

All MLS activities shall be coordinated through the Chief Executive Officer in an effort to avoid conflicts that would greatly affect the participation in the activity. *(Revised 12/2019)*

**Policy #25: Committee or Task Force Participation**

Participation on committees or task forces will occur by appointment or recommendation of the Executive Committee and Chair of that committee and ratified by the Board of Directors as stated in Article XI Section 1.H. Members of standing committees are appointed for specific terms. Each standing committee shall consist of not less than five (5) members. Only those Participants and/or Subscribers who have been appointed and confirmed by the Board of Directors are authorized to vote on issues that come before a committee. PAG's and task forces may continue until their project is completed. *(Amended 12/2021)*

**Policy #26: MLSSAZ Staff Support**

All MLSSAZ staff is directly responsible to and under the direction of the Chief Executive Officer. Any requests for staff time shall be coordinated through the Chief Executive Officer. The Chief Executive Officer is responsible for the hiring, supervision and termination of employment of any and all staff. *(Revised 12/2019)*

**Policy #27: Committee Meeting Report Procedure**

A copy of the reports and minutes of all committee meetings will be available to the Committee by the next regularly scheduled meeting.

A copy of the reports and minutes of all committee meetings will be distributed to the Board of Directors by the next regularly scheduled meeting. Information of a confidential nature (hearing results, etc,) may be redacted from public view, but will be kept in the official records of MLSSAZ. *(Amended 12/2019)*

**Policy #28: Noise Emitting Devices**

Mobile phones and all other noise emitting devices must be in either off or in the silent mode in all MLSSAZ meetings or programs. *(Revised 12/2021)*

**Policy #29: Candidates for MLSSAZ Director Position**

Candidates for MLSSAZ Director position, except officer positions, will receive one MLSSAZ email blast for campaign purposes.

**Policy #30: Voting Procedures**

The Chief Executive Officer of MLSSAZ shall be responsible for implementing the voting procedures.

#### A. Creating the Market Share Report

The report shall include the number of sales each Participant has recorded on the MLS in the previous year and shall include both Selling sides and Listing sides for all For Sale property transactions.

1. Select "Statistics" and then select "Inventory and Production"
2. Select "Saturation Analysis" in the left window
3. Select all For Sale property types
4. Select Comparable Listing Only: "No"
5. Select Status: "Closed"
6. Scroll to the bottom
7. Select Saturation Comparison Types: "Market Share"
8. Enter the Begin Date (January 1, year) of the previous year, i.e., 1/1/2011
9. Enter the End Date (December 31, year) of the previous year, i.e., 12/31/2011
10. Click "Next"
11. Select "Rank Companies" then click "Use This Selection"
12. Select Calculation Method: "Number" and Status: "Sold"
13. Select "Listing **or** Selling Companies"
14. Check "Calculate numbers and volume using sides"
15. Enter a large number in the box "Please enter the maximum number of Companies to display:" i.e., 1000
16. Click "Next"

*(Revised 12/2019)*

#### B. Determining Groups

1. Copy the "Market Penetration Report By Companies Report" to a spread sheet
2. Refer to MLSSAZ Bylaws ARTICLE VI, Section 1 B – C
3. All Participants shall be informed of the Group they fall into each election year, and the number of Participants who are eligible to field a candidate for that Group. If there is not an open seat for the Group, the Participants shall be informed who currently represents the Group and their term of office.
4. Candidates for open seats shall be introduced at the Participant meeting.

#### C. Balloting and Tabulation

1. Elections shall be conducted electronically.
2. Participants eligible to vote will be provided detailed voting instructions with the candidate Information provided in advance of the election period. Participants eligible to vote shall be those Participants in good standing with MLSSAZ. The designated Broker of each eligible Participant shall be the member casting the vote for the Participant. The election period shall be determined by the Chief Executive Officer in compliance with Policies and/or Bylaws.
3. The election site will clearly state "Vote for not more than one (1) Subscriber for each Group."
4. The election site will be a secure site, allowing eligible Participants to vote only during the election period.
5. Participants without internet access may cast their electronic vote at the MLSSAZ office during the election period.
6. If only one candidate is filed for a particular group that candidate shall be elected by acclamation.
7. If there is no candidate running for a particular Group, then the candidates for the next highest group (or failing that, the next lowest group, or failing that by decision of the MLS President) shall be permitted to run for that Group.
8. In the event a candidate running in a Group unopposed receives no votes, the candidate shall be elected by acclamation.

9. In the event multiple candidates running in a Group receive no votes, a written ballot shall be taken at the first appropriate Board of Directors meeting. The candidate receiving the highest number of votes shall be declared elected.
10. At the completion of the election period, the results will be available to the Chief Executive Officer or appointed voting administrator via a password protected website from the electronic voting provider. The reports available will include how many votes were cast and the results of the election. No information is maintained that would indicate who voted for whom.
11. Results of elections shall become part of the permanent records of MLSSAZ. Results of the elections shall be announced to the membership within 5 business days of the end of the election period. Vote results and Group spreadsheet shall be published only to members on the MLSSAZ webpage for 30 days. *(Amended 01/2013)*

**Policy #31: General Advertising Policy**

MLSSAZ reserves the right to accept or reject any advertising which it feels may not be in the best interest of MLSSAZ. All advertising through any medium offered by MLSSAZ shall be restricted to affiliate members of the Shareholder and Non-Shareholder Associations of MLSSAZ, and companies authorized to offer MLS related services to Participants. All advertisers shall indemnify the entire membership of the Shareholder and Non-Shareholder Associations of MLSSAZ and Participants/Subscribers of MLSSAZ, as well as the Shareholder and Non-Shareholder Associations of MLSSAZ and MLSSAZ from advertisements based on any claims that would breach this indemnification, to include but not be limited to advertising that is: defamatory, libelous, obscene, an invasion of privacy or that has been obtained in violation of the proprietary right of any person. *(Revised 12/2019)*

Companies advertising to consumers through MLSSAZ public channels will not offer real estate services (brokerage, mortgage, title, etc.). Advertisements containing political, adult/provocative, alcohol, tobacco/nicotine, religious, or those deemed to be misleading to consumers will not be accepted. *(Adopted 12/2019)*

MLSSAZ will not discriminate in accordance with local, state and federal guidelines and strive to be inclusive in accepting advertising and will not accept advertising of services, products or educational ideas which in any way indicates such discrimination by advertisers. *(Revised 12/2021)*

**Policy #32: MLSSAZ Computer Message and Text Message Guidelines**

- A. Information regarding computer down times.
- B. Programming changes or system performance messages.
- C. Any wrongdoing or any unethical or dangerous person(s) trying to defraud our industry.
- D. At the discretion of the CEO and the Executive Committee, additional messages may be sent.
  1. Calls to Action and any appropriate industry functions.
  2. Death of any past or current REALTOR®, who has been active in the organization as a director or committee chair.
  3. Information notices regarding MLSSAZ vendors.
  4. MLSSAZ educational opportunities.
  5. Information regarding MLSSAZ Rules and Policies.

*(Revised 10/2020)*

**Policy #33: MLSSAZ Announcements**

MLS announcements are complimentary and for the purpose of promoting Shareholder or Non-Shareholder Association and MLSSAZ educational opportunities, special events, programs, products and services and industry-related information (i.e., grant money, bonds, etc.) for the Participants and/or Subscribers. *(Revised 12/2021)*

**Policy #34: Policy Prohibiting Harassment (Including Sexual Harassment)**

MLSSAZ is committed to providing a work environment that is free of discrimination and/or harassment. In keeping with this commitment, MLSSAZ will not tolerate verbal or physical conduct by any employee or Participant/Subscriber that harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment.

- A. Employees and Participants/Subscribers are expected to maintain a productive work environment that is free from harassing or disruptive activity. Harassment in any form is strictly prohibited. Harassment includes inappropriate conduct, comment, display, action, or gesture based on another person's sex (including pregnancy), color, race, religion, national origin, age, physical or mental disability, sexual orientation, gender identity, or genetic information. Examples of harassment include, but are not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and the display or circulation of written or graphic material that denigrates or shows hostility toward an individual or group based such characteristics. *(Amended 12/2021)*
- B. Each supervisor has a responsibility to keep the workplace free of any form of harassment, and in particular, sexual harassment. No supervisor, manager or Participant/Subscriber is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment.
- C. Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, managers, non-supervisory employees, or non-employees, is also prohibited. Such conduct includes:
  - 1. Unwanted or unwelcomed physical contact or conduct of any kind, including sexual flirtations, touching, advances, or propositions;
  - 2. Verbal abuse of a sexual nature;
  - 3. Jokes of a sexual nature;
  - 4. Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress or body;
  - 5. The display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs; and
  - 6. Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages.Any of the above conduct, or other offensive conduct, directed at individuals because of their race, national origin, religion, disability, pregnancy, age, or military status is also prohibited.
- D. Any employee who believes that a supervisor's, manager's, other employee's, or non-employee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible. The report or complaint should be made to the employee's supervisor, Staff Vice President, to the CEO or to the President of the Board of Directors.
- E. All complaints of harassment are to be referred to the CEO for prompt investigation in as impartial and confidential manner as possible. (If the CEO or President of the Board of Directors is the party accused of harassment, the complaint must be referred to outside counsel, with the report made to the Board of Directors.) Employees are required to cooperate in any investigation. A timely resolution of each complaint is to be reached and communicated to the parties involved. *(Amended 12/2021)*
- F. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited. MLSSAZ reserves the right to take any necessary and appropriate action against an Employee, Participant, or Subscriber who engages in any form of harassment or inappropriate behavior in violation of this Policy. Such actions may include, but are not limited to, prohibition from attendance at future MLSSAZ meetings or events, removal from committee appointments, termination of offending employee, Participant or Subscriber, or any other action deemed appropriate by MLSSAZ. In the event that the Board of Directors contemplates termination of a

Participant or Subscriber's participatory rights, it will consult with outside counsel on the matter before taking final action. *(Amended 12/2021)*

- G. To prevent contact between a Participant or Subscriber who has engaged in harassing conduct and an affected staff member, the CEO may identify a direct staff contact for that Participant or Subscriber. In that instance, the Participant or Subscriber is prohibited from contacting any other member of MLSSAZ's staff without first working through the designated contact. *(Amended 12/2021)*
- H. In the event a Participant/Subscriber's subscription has been terminated for violation of this harassment policy, the MLS Board of Directors may, by majority vote, determine that the Participant/Subscriber may not reapply for a specified period not to exceed three (3) years. *(Amended 12/2021)*

### **Policy #35: Staff Relatives in Leadership Positions**

Participants and/or Subscribers related to staff shall not be eligible to hold Chair or Vice Chair or any leadership positions on MLS committees or MLS Board of Directors. If such a relationship develops at the time a Participant and/or Subscriber is serving in any of said leadership positions, either the leadership position or staff position must result in an immediate resignation.

This policy includes:

- A. Spouse
- B. A natural or adopted son, daughter or a descendant of either.
- C. A stepson or stepdaughter.
- D. The father or mother or an ancestor of either.
- E. A stepfather or stepmother.
- F. A son-in-law, daughter-in-law, father-in-law, or mother-in-law.

*(Revised 6/23/2015)*

### **Policy #36: Conflict of Interest**

The purpose of the conflict of interest policy is to protect this organization's interest when it is contemplating entering into a transaction or arrangement that would reasonably be expected to exert an influence, or would appear to others to exert an influence, on the judgment of an officer or director, committee or task-force member, or staff member of MLSSAZ. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest. *(Amended 12/2021)*

### **Definitions:**

#### **A. Interested Person**

Any affected leader who has a direct or indirect financial interest, as defined below, is an interested person. *(Amended 12/2021)*

#### **B. Financial Interest**

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

1. An ownership or investment interest in any entity with which the MLSSAZ has a transaction or arrangement,
2. A compensation arrangement with MLSSAZ or with any entity or individual with which the MLSSAZ has a transaction or arrangement, or a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the MLSSAZ is negotiating a transaction or arrangement.

#### **C. Reporting Officer.** An interested person's reporting officer is identified according to the following rules:

1. No interested person can be their own reporting officer.
2. If the interested person is a member of a committee or task force, the chair or presiding

- officer of the committee or task force is the reporting officer.
3. If the interested person is a chair or presiding officer of a committee or is the chief staff officer of MLSSAZ, the president of MLSSAZ is the reporting officer.
  4. If the interested person is a staff member of MLSSAZ, the chief staff officer of MLSSAZ is the reporting officer.
  5. For any other interested person, the Board of Directors is the reporting officer.
- (Amended 12/2021)*

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

**Procedures:**

**A. Duty to Disclose**

In connection with any actual or possible conflict of interest, an interested person must disclose to their reporting officer the existence of the financial interest and be given the opportunity to disclose all material facts concerning the proposed transaction or arrangement. *(Amended 12/2021)*

**B. Determining Whether a Conflict of Interest Exists**

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the reporting officer will determine whether a conflict of interest exists. If the reporting officer is the Board of Directors, the interested person shall leave the Board of Directors meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board members shall decide if a conflict of interest exists. *(Amended 12/2021)*

**C. Procedures for Addressing the Conflict of Interest where Board of Directors is the reporting officer**

1. An interested person may make a presentation at the Board of Directors meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
2. The Board President shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
3. After exercising due diligence, the Board of Directors shall determine whether the MLSSAZ can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
4. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board of Directors shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the MLSSAZ best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

**D. Procedures for Addressing the Conflict of Interest with reporting officers other than the Board of Directors**

1. A reporting officer shall exercise due diligence in assessing the potential conflict of the interested person.
2. If the potential conflict cannot be managed to allow the interested person's continued involvement in decision making regarding the transaction or arrangement giving rise to the conflict, the reporting officer shall excuse the interested person from deliberation and voting on the arrangement.
3. If the potential conflict can be managed to allow the interested person's continued

involvement in decision making, the reporting officer shall memorialize the management plan agreed to with the interested person and share the management plan with any other participants in decision-making on the transaction or arrangement giving rise to the conflict and with the reporting officer's own reporting officer.

*(Amended 12/2021)*

**E. Violations of the Conflicts of Interest Policy**

1. If any reporting officer has reasonable cause to believe an interested person has failed to disclose actual or possible conflicts of interest, they shall inform the interested person of the basis for such belief and afford the interested person an opportunity to explain the alleged failure to disclose. *(Amended 12/2021)*
2. If, after hearing the interested person's response and after making further investigation as warranted by the circumstances, the reporting officer determines the interested person has failed to disclose an actual or possible conflict of interest, the reporting officer shall take appropriate disciplinary and corrective action. *(Amended 12/2021)*

**Records of Proceedings:**

The minutes of the Board of Directors and all committees and task forces with board delegated powers shall contain:

- A. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, the reporting officer's decision as to whether a conflict of interest in fact existed, and a description of any plan for managing the conflict. *(Amended 12/2021)*
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**Compensation:**

- A. A voting member of the Board of Directors who receives compensation, directly or indirectly, from the Multiple Listing Service for services is precluded from voting on matters pertaining to that member's compensation.
- B. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Multiple Listing Service for services is precluded from voting on matters pertaining to that member's compensation.
- C. No voting member of the Board of Directors or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the MLSSAZ, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

**Annual Statements:**

Each affected leader (as defined above) shall annually sign a statement which affirms such person:

- A. Has received a copy of the conflicts of interest policy
- B. Has read and understands the policy
- C. Has agreed to comply with the policy

*(Amended 12/2021)*

**Periodic Review:**

To ensure the Multiple Listing Service operates in a manner consistent with its purposes and does not engage in activities that could jeopardize its status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- A. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- B. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Multiple Listing Service's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further its purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

**Use of Outside Experts:**

When conducting the periodic reviews as described above, the Multiple Listing Service may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

**Policy #37: Whistleblower Policy:**

MLSSAZ: (1) encourages staff and volunteers to come forward with credible information on illegal practices or serious violations of adopted policies of the Multiple Listing Service; (2) specifies that the Multiple Listing Service will protect the person from retaliation; and (3) identifies where such information can be reported.

- A. **Encouragement of reporting.** The Multiple Listing Service encourages complaints, reports or inquiries about illegal practices or serious violations of the Multiple Listing Service's policies, including illegal or improper conduct by the Multiple Listing Service itself, by its leadership, or by others on its behalf. Appropriate subjects to raise under this policy would include financial improprieties, accounting or audit matters, ethical violations, or other similar illegal or improper practices or policies. Other subjects on which the Multiple Listing Service has existing complaint mechanisms should be addressed under those mechanisms, such as raising matters of alleged discrimination or harassment via the Multiple Listing Service's human resources channels, unless those channels are themselves implicated in the wrongdoing. This policy is not intended to provide a means of appeal from outcomes in those other mechanisms.
- B. **Protection from Retaliation.** The Multiple Listing Service prohibits retaliation by or on behalf of the Multiple Listing Service against staff or volunteers for making good faith complaints, reports or inquiries under this policy or for participating in a review or investigation under this policy. This protection extends to those whose allegations are made in good faith but prove to be mistaken. The Multiple Listing Service reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.
- C. **Where to report.** Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the basis of the complaints, reports or inquiries. They should be directed to the Multiple Listing Service's Chief Executive Officer or President of the Board of Directors; if both of those persons are implicated in the complaint, report or inquiry, it should be directed to the President-Elect of the Board of Directors. The Multiple Listing Service will conduct a prompt, discreet, and objective review or investigation. Staff or volunteers must recognize that the Multiple Listing Service may be unable to fully evaluate a vague or general complaint, report, or inquiry that is made anonymously.

**Policy #38: Employee and Subscriber/Volunteer Working Relationships:**

MLSSAZ establishes the following Employee and Subscriber/Volunteer Working Relationships policy in order to promote a cordial, pleasant and legally compliant working environment between MLSSAZ employees and its' subscribers.

Since MLSSAZ is a subscriber services organization with revolving terms in the Board of Directors and Committees, this policy is established to preserve continuity of authority and responsibility within the work environment.

**Policies, Programs and Services**



- A. The Board of Directors shall establish the scope of MLSSAZ policies, programs and services. The Chief Executive Officer is responsible to carry out the policies, programs and services established by the Board of Directors.
- B. No subscriber shall be provided with services beyond the scope of services provided to all subscribers. Any request by a subscriber for services outside the scope of an employee's authorization must be forwarded to the Chief Executive Officer. This request must contain information on the unique circumstances of the situation which prompted the subscriber to request the extraordinary measures be considered for their benefit. The Chief Executive Officer may then determine if an exception should be made, with input from the appropriate MLSSAZ officer, or if the request should be brought to the attention of the Board of Directors for resolution.

#### **Committee Support**

- A. An MLSSAZ employee should render all possible technical and administrative assistance to the committees or task forces to which he/she is assigned. The MLSSAZ employee is involved so as to answer questions, offer suggestions or raise questions, when appropriate, and to conduct research or carry out tasks as requested by the committee chair and/or Chief Executive Officer.
- B. An MLSSAZ employee is expected to be knowledgeable on MLSSAZ policy, committee or task force scope and the subject under discussion.

#### **Staff and Subscriber/Volunteer Working Relationships**

- A. The Chief Executive Officer is responsible to and takes his/her instructions from the Board of Directors (as a collective body). All other MLSSAZ employees are responsible to and take instruction from the Chief Executive Officer.
- B. Interaction between MLSSAZ employees and subscribers/volunteers shall be maintained at a professional level characterized by mutual respect, courtesy, effort and cooperation to resolve issues. Under no circumstances should MLSSAZ employees or Subscribers/volunteers engage in discourteous or unprofessional behavior (i.e., use of profanity, disparagement of another employee or subscriber, use of physical force, etc.)
- C. Any behavior by a Subscriber/volunteer, which interferes with or compromises a MLSSAZ employee's job performance, is not acceptable. A MLSSAZ employee may, at their sole discretion, terminate any conversation with a subscriber/volunteer that may be considered to be offensive. All such incidents should be reported to the Chief Executive Officer or President for appropriate action.
- D. Subscribers/volunteers are not responsible for and may not discipline a MLSSAZ employee. Any unprofessional behavior or unacceptable performance by a MLSSAZ employee, which is observed by a subscriber/volunteer, should be reported to the Chief Executive Officer or President for appropriate action.

*(Revised 12/2019)*

#### **Policy #39: Corrections Policy**

MLSSAZ Corrections Policy is available in Appendix 1

#### **Policy #40: Waiver Policy**

MLSSAZ Waiver Policy is available in Appendix 2

#### **Policy #41: Vendor/Participant Policy**

To avoid a conflict of interest, MLSSAZ will not implement/offer any service provided or owned by any MLS Participant without the express permission of the MLSSAZ Board.

#### **Policy #42: MLSSAZ Fines Collection**

On a quarterly basis, any fines collected during that quarter will be made as a donation to a qualified charitable foundation in the communities we serve, as approved by the MLSSAZ Executive Committee.

*(Adopted 11/2021)*

**Policy #43: Cybersecurity Audit**

Due to the significant impact of Cybersecurity issues, the MLSSAZ shall conduct a Cybersecurity audit at least annually, through an experienced third-party cybersecurity company. Once the audit is complete, findings and recommendations will be presented to the Board of Directors at their next meeting. (*Adopted 11/2021*)

## **Appendix 1**

### **MLSSAZ Corrections Policy**

*Policy Adopted March 21, 2017*

*Policy Effective May 1, 2017*

To ensure the integrity of the MLS and the MLS database, this Corrections Policy has been established in accordance with Section 7 of the MLS Rules & Regulations. Sanctions will be issued in accordance with this policy. This policy is subject to change upon approval of the Board of Directors. This policy is not all-inclusive, does not reflect violations of the Code of Ethics, and does not replace Professional Standards Enforcement through your local Association of REALTORS®. The Board of Directors understands that the MLS database is an integral part of your day-to-day business and has instituted this Corrections Policy to make a focused effort to increase the accuracy and protect the integrity of the MLS.

#### **Definitions**

**Complainant** – A Participant or Subscriber who files a complaint against another Participant or Subscriber.

**Days** – Unless otherwise noted, all references to Days shall mean calendar days.

**Firm** – An office or group of offices filed as a single corporate entity. For the purpose of this policy, a firm refers to the main office and any branch offices.

**Participant** – The Designated REALTOR® for any MLSSAZ Brokerage Firm.

**Participant as an Individual** – An individual who holds the title of Designated REALTOR® but is referenced as an individual and not the responsible member of their company.

**Subscriber** – Non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

**Schedule of Fines** – A list of monetary fines to be used as a guide for assessment of monetary sanctions by MLS Staff or the MLS Standards Committee. List is not all-inclusive and is available in Section 26 of the MLSSAZ Rules and Regulations.

**Sanctions** – a monetary or non-monetary penalty for violations of the MLS Rules and Regulations, including Letter of Concern, Letter of Warning, monetary fine, or mandatory education.

**Respondent** – A Participant or Subscriber who is to respond to a complaint filed by another Participant or Subscriber.

#### **Section 1 – Reporting a Potential Violation**

##### **1.1 How Violations Originate**

Violations are reported to the MLS in a variety of ways. The most common methods of reporting violations to the MLS are:

- Reported to MLS Staff
- Random checks of the database
- Result of listing audit. MLS Rules/Regulations allow MLS staff to request copies of listing forms and change orders
- Reporting of concerns from the general public

Violations reported to the MLS are confidential. MLS staff will not disclose the name of the individual who reported the violation.

##### **1.2 Reporting Violations**

Violations are to be reported to the MLS by using “Report Error” option in the MLS or by sending a direct e-mail to MLS staff at [errors@mlssaz.com](mailto:errors@mlssaz.com).

##### **1.3 Required Information When Reporting**

When reporting violations, the following information is required for verifying and processing of violations:

- Name and office of the alleged responsible Participant or Subscriber
- Nature of the violation (be as specific as possible, i.e., when it occurred, the MLS #, etc.).

#### **1.4 Types of Violations**

There are three main types of violations, Correctable Violations, Non-Correctable Violations, and Behavioral Violations. Correctable violations are typically clear cooperation policy violations, listing input violations involving incorrect information, agent/brokerage branding, and remarks violations which can be corrected in the MLS system. Non-Correctable violations are those where there is no opportunity for correction of the violation and include, but are not limited to, late listing input, failure to complete required forms, statistical manipulation, Lockbox Key sharing, and MLS access sharing. Behavioral violations are focused on a Subscriber's actions and include but are not limited to security violations and showing violations. (Amended 10/2020)

### **Section 2 – Correction Process**

#### **2.1 – Notice of Correction**

When a violation is reported, MLS staff will verify the validity and send a Notice of Correction to the Participant and Subscriber indicating the MLS listing, nature of the violation, and timetables for a resolution or response. All notices are sent via e-mail only. Notices are sent to the primary e-mail address of the listing Subscriber and the primary e-mail address of the Participant that are listed in the MLS system. A notification sent by MLSSAZ to a Subscriber and/or Participant will be presumed received on the date e-mailed unless a delivery failure message has been received (Receipt Date).

#### **2.2 Notice of Administrative Sanctions**

If the requested correction has not been appropriately addressed within two business days of the receipt of the Notice of Correction, a reminder message will be sent. If the violation is not corrected within 24 hours of when the reminder message is sent, appropriate sanctions will be issued according to the escalation scale in Section 3.a.2 of this policy.

The Participant or Subscriber may request a review of the administrative sanctions by submitting a Review Request Form to the MLS within five business days. The review will be conducted by the MLS Standards Committee. The MLS Standards Committee may approve a waiver of the sanctions issued by the MLS with a majority vote. If the waiver is not granted, the Subscriber may request an appeal by the MLS Board of Directors within 20 calendar days.

#### **2.3 Notice of Review**

If a violation of the MLS Rules & Regulations is a Non-Correctable Violation or a Behavioral Violation, the initial Notice of Correction indicating two business days for correction will not be sent. The Subscriber and his/her Participant will only receive a Notice of Review indicating that the MLS Standards Committee will review the violation.

The MLS Standards Committee will review the violation and determine if sanctions are to be issued. Following the MLS Standards Committee Meeting, a notification will be sent to the Participant and Subscriber and will include an invoice for the amount of the fine if one was issued. Refer to MLSSAZ Rules and Regulations Section 26 for a schedule of fine amounts.

#### **2.4 – Standards Committee Review – Correctable and Non Correctable Violations**

The MLSSAZ Standards committee is charged with reviewing alleged violations of the MLS Rules and Regulations and determining the sanctions to be issued. During the review process, the Respondent and their Participant will have the opportunity to address the Standards Committee regarding the alleged violation. After all relevant information has been presented, the MLS Standards Committee will rule whether or not an MLS Rule has been violated and what sanctions are to be issued.

## **2.5 Standards Committee Review – Behavioral Violations**

Behavioral Violations are reported to the MLS by submitting the Rules and Regulations Violation Form complete with all statements, evidence, and names of witnesses to the MLS. The Complainant must submit the form within 30 calendar days from the date of the alleged violation or 30 calendar days from the conclusion of the transaction between the Complainant and Respondent, whichever is later. Alleged Behavioral Violations will be initially reviewed by MLS Staff within 10 calendar days to confirm it meets the requirements for a Behavioral Violation or if it applies as a REALTOR® Code of Ethics violation. If the review determines that the alleged violation is a violation of the REALTOR® Code of Ethics, the Complainant will be advised to file a Code of Ethics complaint.

If the review determines that alleged violation is not a violation of the REALTOR® Code of Ethics and meets all of the requirements of a Behavioral Violation, the MLS will send a copy of the complaint to the Respondent where the Respondent may respond to the allegations with a written statement, evidence, and names of witnesses. The Respondent has 15 calendar days to respond to the notice.

A review by the MLS Standards Committee will be scheduled during the next meeting of the committee and will be communicated to both the Complainant and Respondent with the Notice of Review. The Notice of Review will outline the process to the Complainant and Respondent. During the review, the Complainant and Respondent will individually and separately have the opportunity to testify to the evidence presented to the Standards Committee and present any witnesses. After both the Complainant and Respondent have addressed the committee, the committee will rule on the alleged violation and if/what sanctions will be appropriate. The review will be recorded and made available to the MLS Board of Directors if an appeal is necessary.

MLSSASZ will communicate the decision and any sanctions to the Complainant and Respondent within 10 calendar days of the decision.

## **2.6 – Confidentiality**

MLSSAZ Staff will make every attempt to keep the identity of all parties confidential. If the identity of any party is to be made known to the committee, whether it is material to the process or because of attendance at the committee meeting, all committee members who belong to the same firm or may have a conflict will be excluded from hearing and ruling on the case.

## **2.7 – Communications of Results**

If at any time during the process, it is determined that the reported violation was not a violation of the rules, that fact will be communicated to the Complainant. For Correctable and Non-Correctable violations, any sanctions issued by the committee will only be made known to the Respondent and his/her Participant. For Behavioral Violations, both the Complainant, Respondent and his/her respective Participant will be notified of the decision of the Standards Committee.

## **Section 3 – Repeat Offender/Offense Policy**

The MLSSAZ Repeat Offender/Offense Policy (Repeat Policy) is a set of guidelines used by the MLS Standards Committee and MLS Staff regarding repeat violations of the MLSSAZ Rules and Regulations. One of the primary purposes of the MLS is to provide accurate and up to date information for the facilitation of cooperation and compensation between MLS Participants. With this in mind, the Repeat Policy is designed to escalate potential sanctions placed on Participants and Subscribers for repeat violations of the Rules and Regulations.

Repeat Offender/Offense Policy Defined

### **A. Repeat Offense**

#### **1. Definition:**

A repeat offense is defined as any Participant as an Individual or Subscriber who has had a total of three (3) or more violations of a specific rule, and where the total violation count is

greater than 10% of the Subscriber's current Active inventory, within one consecutive year from the most recent violation.

2. Repeat offenses shall be subject to the following escalation scale:
  - a. First, a Letter of Concern will be issued to the Subscriber and their Participant as an educational opportunity.
  - b. Next, automatic issuance of the appropriate fine as listed in Section 26 of the Rules and Regulations.
  - c. If the offenses continue, fine amounts will continue to increment by a factor of 1 for each subsequent violation of the same type, and shall not exceed \$15,000, until no subsequent violations of the same type occur for one year. (1x\$50, 2x\$50, 3x\$50, etc.)

**B. Repeat Offenders**

**1. Definition:**

A repeat offender shall be defined as any Participant as an Individual or Subscriber who has had a total of ten (10) or more violations of the MLSSAZ Rules and Regulations within one consecutive year from the most recent violation.

**2. Repeat offenders shall be subject to the following escalation scale:**

- a. A Letter of Concern will be issued to the Subscriber and their Participant as an educational opportunity.
- b. Automatic issuance of the appropriate fine as listed in Section 26 of the Rules and Regulations.
- c. Fine amounts will continue to increment by a factor of 1 for each subsequent violation of the same type, and shall not exceed \$15,000, until no subsequent violations of the same type occur for one year. (1x\$50, 2x\$100, 3x\$50, etc.)

- C. If any Participant as an Individual or Subscriber reaches a total of twenty (20) total violations in one calendar year, the Participant or Subscriber, with his/her Participant, shall attend a mandatory hearing by the Board of Directors for additional sanctions as described in Section 7 - Compliance with Rules/Authority to Impose Discipline.
- D. If any Participant as an Individual or Subscriber has committed the same offense on the same listing, they shall automatically escalate to the repeat offense status and be subject to the provisions in section A.2.b above.
- E. If any individual Participant as an Individual or Subscriber has reached Repeat Offender or Offense status, the Participant or Subscriber may opt for a one-time buy down of one violation by attending an MLS training class suitable for the offense. The individual must submit a request for a buy-down within 5 business days of the issuance of the sanction and complete the MLS training class within 90 calendar days of the buy-down request.

## **Section 4 – Calculation of Time Periods**

### **4.1 Receipt of Notices**

A notification sent by MLSSAZ to a Subscriber and/or Participant will be presumed received on the date e-mailed unless a delivery failure message has been received. Final dates for receipt of replies from the Subscriber or Participant will be included in all correspondence from MLSSAZ.

### **4.2 Initial Notification and Response**

In calculating time periods, calculation of time begins on the day after notification.

## **Section 5 – Due Date for Payment of Fines**

Fines will be placed on the Subscriber's billing account upon assessment. Should an appeal request be submitted in accordance with current policy, the amount will be removed from the Subscriber's account pending final determination. If the fine is upheld, the amount will be placed back on the Subscriber's account and payment will be subject to current MLSSAZ billing policies.

## **Section 6 – Right to Appeal Standards Committee Sanctions**

### **6.1 Initial Request for Appeal**

All Subscribers have the right to request an appeal of any sanction/fine issued by MLSSAZ. The MLS Board of Directors may uphold the sanctions issued from the MLS Standards Committee, overturn or modify the decision from the MLS Standards Committee, or send the decision back to the MLS Standards Committee for reconsideration.

For Behavioral Violations, the Complainant may appeal the decision of the MLS Standards Committee based on a procedural deficiency or lack of due process only. The Respondent may appeal based on misinterpretation or misapplication of a Rule, procedural deficiency or lack of due process, or may appeal the sanctions issued.

### **6.2 Requesting an Appeal**

Requests for an appeal must be submitted on the Appeal Request form no later than 20 calendar days after the date the notice of sanction/fine was issued and be accompanied by all supporting documentation for review at the appeal. Any required corrections must be made prior to requesting an appeal of a sanction. A request for Appeal will not be considered "received" until all required information is complete and properly signed (if applicable). No additional documents or evidence can be presented after the request has been submitted.

For Behavioral Violations, no additional evidence or witnesses may be presented during the appeal. The Board of Directors will receive a copy of the audio recording or a transcript of the recording and all written statements and evidence presented at the initial review.

### **6.3 Types of Appeal**

The Subscriber will have the option of selecting either a "Documents Only" appeal or to appear in person at the MLS Board of Directors Meeting. A "Documents Only" appeal will consist of any documents submitted with the Request for Appeal. For Behavioral Violations, no additional evidence or statements relating to the alleged violation may be submitted during the appeal process.

### **6.4 Make Up of an Appeal Panel**

A panel will consist of all members of the MLS Board of Directors present at the scheduled meeting. If a quorum is not established at the meeting, the appeal will be rescheduled for the next MLS Board of Directors meeting. Directors employed by the same firm as the Subscriber or any director that may have a conflict of interest will be excused from the Appeal Panel.

### **6.5 Appeal Dates**

Appeals will be scheduled in conjunction with the MLS Board of Directors meetings.

### **6.6 Receipt of Documentation**

Receipt of documentation or correspondence sent by MLSSAZ to a Subscriber and/or Participant will be presumed received on the date e-mailed unless a delivery failure notice has been received. Final dates for receipt of replies will be included in all correspondence.

### **6.7 Decision of Appeal Panel**

The responsible Subscriber and/or Participant will be notified of the results of the Appeal within 10 calendar days of the final decision of the Appeal Panel. The decision of the Appeal Panel is considered final, unless the respondent believes they were denied Due Process.

### **6.8 Right to Appeal the Decision of the Appeal Panel**

Upon notification of the decision of the Appeal Panel, the Subscriber shall have the right to appeal the decision based only on “Due Process” as defined in the National Association of REALTORS® Code of Ethics and Arbitration Manual (COEAM). A request for appeal must be filed within twenty (20) calendar days of the date on the decision of the Appeal Panel. Appeals based on due process will be referred to the Arizona Association of REALTORS®.

### **Section 7 – Failure to Complete Sanctions**

Failure of an MLS Subscriber to pay fines levied by the MLS Standards Committee or MLS Board of Directors shall be subject to the terms of the MLSSAZ Collection Policy.

Failure of any Participant or Subscriber to abide by the non-monetary sanctions issued by the MLS Standards Committee shall be reviewed by the MLS Board of Directors for possible Suspension of MLS Services until sanctions are satisfied. Failure of any Participant or Subscriber to abide by any sanctions issued or confirmed by the MLS Board of Directors will result in an immediate suspension of MLS Subscription until sanctions have been fulfilled or until the end of the current MLS Subscription period. If, at the end of the current MLS Subscription period, any Participant as an Individual who has not satisfied sanctions issued, Participation shall be terminated. At the start of the next MLS Subscription period, suspended Subscribers shall become Non-Member Licensees with no access to MLS services and subject to the Non-Member Licensee fees and application fees to re-instate as a full MLS Subscriber



## **Appendix 2**

### **MLSSAZ Waiver Policy**

*Policy Adopted January 16, 2018*

*Policy Effective July 1, 2018*

MLSSAZ provides no cost waivers to real estate licensees (Licensees) employed by an MLS Participant who meet the qualifications of one or more of the Types of Waivers. Licensees who qualify and are on waiver shall be exempt from payment of MLS fees and shall not have access to the MLS or receive any benefits of an MLS Subscription.

#### **Types of Waivers**

##### **Property Management**

For Licensees who work solely in the field of Property Management and do not utilize the MLS for any purpose including but not limited to the solicitation of properties available for lease or the valuation of rental properties.

##### **Commercial**

For Licensees who work solely in the field of Commercial Real Estate and not utilize the MLS for any purpose including but not limited to the offer of commercial listings for sale or for lease or the valuation of commercial properties.

##### **Active/Reserve Military on Deployment**

For Licensees who have an active real estate license and are currently deployed with the United States Armed Services and will not be performing duties as a real estate licensee. Licensees who are deployed may have their Designated REALTOR® submit the waiver application on their behalf without the Licensees signature.

##### **Illness**

Licensees who are afflicted with a serious illness which prevents him/her from actively performing duties as a real estate licensee.

##### **Alternate MLS Subscription**

The Alternate MLS Subscription waiver is for Licensees whose license is registered at an office within the Service Area of MLSSAZ but who has an active MLS Subscription at a different MLS where their Designated REALTOR® has Participation rights.

#### **Waiver Application Process**

All Licensees wishing to apply for a waiver must do so with the MLS Waiver Application form. Waiver applications must be authorized by the Participant (Designated REALTOR®). Waivers, if granted, are valid until the end of the current MLS Billing Cycle. The waiver is valid only for the Participant's Licensee listed on the application. If the Licensee transfers to different Participant, this waiver becomes void and he/she is required to reapply for the waiver under the new Participant.

Before any waiver is granted, Licensee must return any and all equipment that may be issued by MLSSAZ. Office secretaries and personal assistants who hold an active real estate license do not qualify for a waiver.

Applicants of the Alternate MLS Subscription waiver may provide MLSSAZ with a certification from the MLS organization where he/she holds his/her alternate Subscription and must re-certify annually. Licensees on waiver are not eligible to participate in transactions with listings listed in MLSSAZ and may not be associated with a team whose members have an active Subscription to MLSSAZ.

#### **Services Provided**

Licensees on waiver shall receive no services from MLSSAZ. Licensees are not eligible to possess an MLS Issued Lockbox Key.

**Violation of Waiver Terms**

Licensees found to be in violation of the terms of the waiver shall have their exemption automatically revoked and will be subject to a fine in the amount of \$1000 plus any MLS fees previously waived in the previous five years.