PropTx
Innovations Inc.

Arbitration and Professional Standards Policies

PropTx Innovations Inc.

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PURPOSE

Section 1 – General

The purpose of these Arbitration and Professional Standards Administration Policies ("**APS Policies**") is to outline the administration of compliance and commission disputes for the PropTx MLS® Service Users. The APS Policies shall be read and interpreted alongside related PropTx Rules, Policies, Codes and Agreements.

Section 2 – Arbitration

The purpose of the Arbitration process is to provide Brokerage Members an inexpensive alternative to the courts to have disputes heard on a timely basis by fellow real estate professionals.

Section 3 – Professional Standards

The purpose of the Professional Standards process is to set out the orderly, competitive, and efficient operation of the PropTx MLS® System. In addition, the process intends to embody the core values of honesty, integrity, fairness, accountability and professionally competent service.

ARTICLE 1 – DEFINITIONS

Section 1

1.01 In these APS Policies, unless the context requires otherwise words or terms having a commonly understood meaning in the real estate brokerage industry and not otherwise defined herein shall be given that meaning provided that the terms set out below shall have the following meanings:

i. **"Act"** means the *Trust in Real Estate Services Act 2002* and all regulations thereto, including the Code of Ethics, as such legislation may be amended from time to time and any successor legislation;

ii. **"Agreement to Settle"** means when an Offer to Settle has been accepted by the Respondent;

iii. "**Allegation Statement**" means a written statement containing the specific allegations of misconduct of the Respondent;

iv. "**Appeal**" means the request for review of an Arbitration Award or Professional Standards Hearing Panel decision to the Appeal Panel, as filed in the prescribed form;

v. "**Appeal Hearing**" means a hearing conducted by the Appeal Panel;

vi. "**Appeal Panel**" means a panel chosen to hear an Appeal as further described in Article 6;

vii. "**Appeal Panel Chair**" is further described in Article 6;

viii. "**Appeal Roster**" is further described in Article 6;

ix. "**Appeal Respondent**" means the other party to an Award which is the subject of an Appeal to the Appeal Panel;

x. "**Appellant**" means the party who files an Appeal;

xi. "**Arbitration Hearing**" means a hearing conducted by an Arbitration Hearing Panel

xii. "**Arbitration Process**" means the proceedings prescribed in Article 4;

xiii. "**Arbitration Chair**" means the chair of the Arbitration Roster and Co-Chair of the Appeal Roster;

xiv. "**Arbitration Roster**" is further described in Article 4;

xv. **"Manager"** means the person designated by the Association to oversee the operation of the Arbitration and Professional Standards policies and procedures;

xvi. **"Association"** means the applicable Member Association or Board;

xvii. **"Award"** means the decision of the Arbitration Hearing Panel;

xviii. **"Board of Directors"** means the Board of Directors of the Association;

xix. **"Broker"** means an individual who has the prescribed qualifications to be registered as a Broker under the Act and who is employed by a Brokerage to trade in real estate and is authorized to use the MLS® System;

xx. **"Brokerage"** (Listing/Co-operating) means a corporation, partnership, sole proprietor, association or other organization or entity that, on behalf of others and for compensation or reward or the expectation of such, trades in real estate or holds himself, herself or itself out as such that is also a member of a real estate association that is a signatory to an agreement with the Association to accept and publish Listings on the PropTx MLS® System;

xxi. **"Broker of Record"** has the meaning ascribed to that term in the Association By-Law;

xxii. "**Business Day**" means all days other than Saturday, Sunday and statutory holidays in the Province of Ontario. Where a submission deadline falls on a statutory holiday, the deadline will be extended to the next calendar day that is not a statutory holiday;

xxiii. **"By-Law(s)"** means the By-Law of the Association as may be amended from time to time;

xxiv. "**Case Presenter**" means a person appointed by the Association to present the evidence determined by the Association in support of the alleged specific misconduct of the Respondent

xxv. "**Claim(s)**" means a dispute between Members which are both Brokerages regarding real estate business relating to the division, distribution or disposition of commission paid or to be paid in respect of a transaction, or in connection with any listing on the MLS® System**,** and shall also mean the written notice of such Claim as submitted by the Claimant and further described in Article 2.

xxvi. "**Claimant**" means the Member who is a Brokerage who files a Claim against another Member which is a Brokerage who shall be represented by the Broker of Record or such other person as the Broker of Record may authorize in writing;

xxvii. "**Commercial Member**" means a PropTx User with commercial real estate experience;

xxviii. "**Complainant**" means any person having a Complaint against any Member;

xxix. "**Complaint**" means a written complaint concerning the alleged breach of these Policies, the sections of the CREA Code within the jurisdiction of the Association, the PropTx MLS® Rules, other rules and regulations passed by the applicable Board of Directors and proclaimed in force, or some other alleged misconduct by a Member;

xxx. **"CREA"** means The Canadian Real Estate Association or any successor organization;

xxxi. **"CREA Rules"** means all applicable CREA By-Laws, Rules and Policies, including the REALTOR® Code of Ethics;

xxxii. **"day"** means calendar days, and includes weekends and holidays. Where a submission deadline falls on a statutory holiday, the deadline will be extended to the next calendar day that is not a holiday. Any deadlines or notices sent by electronic means shall be deemed to have been received by the addressee on such day. If receipt of notice occurs after 5:00 p.m. EST, then receipt shall be deemed to be the next Business Day in the Province of Ontario.

xxxiii. **"Form "A""** means the Association standard form for an Appeal of an Award under Article 4;

xxxiv. "**Form "B""** means the Association standard form for an Appeal of a decision from the Professional Standards Hearing Panel.

xxxv. "**Hearing Panel**" means a panel chosen to hear a Claim, Complaint or Appeal as the case may be, which is further described in Articles 2, 4, and 5;

xxxvi. "**Hearing Panel Chair**" means the chair of a particular Hearing Panel;

xxxvii. **"HST"** means the Harmonized Sales Tax imposed by the *Excise Tax Act* (Canada) as may be amended or replaced from time to time;

xxxviii. **"may"** is construed as permissive;

xxxix. "**Mediator**" means a person who acts as a neutral third party.;

xl. **"Member"** includes all types of users authorized by of PropTx to access the PropTx MLS® System and Member of the Association;

xli. **"MLS®"** is a registered trademark of The Canadian Real Estate Association;

xlii. **"MLS® Database"** means the aggregation of all MLS® data as well as its selection, assembly and arrangement, and any successor database owned and operated by or on behalf of PropTx;

xliii. **"MLS® Data Information Form"** means a printed or electronic document containing information required by PropTx from time to time about an MLS® Listing or the property listed on an MLS® Listing;

xliv. **"MLS® Forms"** means all forms (regardless of media employed) prescribed by PropTx for use by Members in connection with the MLS® System;

xlv. **"MLS® Listing"** is property offered for sale, lease, sub-lease, exchange or option through the MLS® System and, where the context permits, includes the information concerning the property submitted to or published on the MLS® System including the MLS® Data Information Form;

xlvi. **"MLS® Listing Agreement"** means the agreement between the Listing Brokerage and a Seller as prescribed by PropTx from time to time and Document Attachment is supplementary to the specific MLS® Listing it is attached to and forms part of the MLS® Listing Agreement;

xlvii. **"MLS® Rules"** means all MLS® Rules and Policies that pertain to all PropTx Users;

xlviii. **"MLS Sign"** means a real estate sign with an associated MLS® Listing Agreement;

xlix. "**MLS® System**" means the MLS® Database and the distribution of such information through the PropTx suite of Commercial Internet Services;

l. "**Notice"** means a formal notification by or on behalf of the Association delivered through electronic means such as email;

li. "**Notice of Mediation**" means written Notice provided by the Arbitration Chair to the Parties setting out the scheduled date of the Mediation;

lii. "**Offer to Settle**" means an offer submitted by the Chair or delegate who is a Vice-Chair on a Professional Standards Roster or Appeal Panel, the matter of which may be any outcome outlined in Section 13 of Article 4.

liii. "**Panel Secretary**" means the person appointed by the Association to administer the work of the Arbitration Roster, Professional Standards Review Roster, Professional Standards Hearing Roster and Appeal Roster;

liv. "**Parties**" (and each a "**Party**") means the Claimant and the Respondent in the Arbitration Process under Article 4, the Association and the Respondent in the Professional Standards Process under Article 5 and the Appellant and the Appeal Respondent in the case of an Appeal under Article 6;

lv. **"Pending Sold"** means a sale that has not yet closed and is "firm" in that the sale does not have or no longer has any conditions to closing;

lvi. **"Personal Information"** shall have the meaning attributed to such term in the *Personal Information Protection and Electronic Documents Act* (Canada), S.C. 2000, c. 5, as such legislation may be amended from time to time;

lvii. **"PIPEDA"** means the *Personal Information Protection and Electronic Documents Act* (Canada), S.C. 2000, c. 5, as such legislation may be amended from time to time;

lviii. "**Preliminary Motion**" means a written submission to the Arbitration Chair regarding objections to jurisdiction of the Arbitration Roster or such other matter which may be raised and is accepted by the Arbitration Chair;

lix. "**Professional Standards Chair**" means the chair of the Professional Standards Roster and Co-Chair of the Appeal Roster;

lx. "**Professional Standards Hearing**" means a hearing conducted by a Professional Standards Hearing Panel;

lxi. "**Professional Standards Roster**" means the Roster of Members as described in Section 1 of Article 5;

lxii. **"property"** means real estate;

lxiii. **"PropTx"** means PropTx Innovations Inc.;

lxiv. **"real estate"** includes leasehold interests and business, whether with or without premises, and fixtures, stock-in trade, goods connected with the operation of Business. For greater clarity, "real estate" may include less than a 100% interest in the foregoing, and shall include mobile homes and travel trailers that have become real property as a fixture;

lxv. **"RECO"** means the Real Estate Council of Ontario;

lxvi. **"RECO Rules"** means the rules promulgated under the Act and all regulations thereto, including all applicable RECO rules and policies;

lxvii. **"Registrant"** means a Brokerage that is registered under the Act or a Broker or Salesperson who is registered under the Act;

lxviii. "**Remuneration**" means compensation of whatever type and source related to a real estate transaction;

lxix. "**Representation Agreement**" means an oral or written agreement (i.e., Buyer Representation Agreement or Listing Agreement) between a Brokerage Member and a consumer that sets the terms of said agreement;

lxx. **"Researcher"** means a member of the Association staff or other person appointed to carry out research concerning the Complaint of misconduct by a Member;

lxxi. "**Residential Member**" means a PropTx User with commercial real estate experience

lxxii. "**Response**" means the Respondent's written reply to the Claim in the Arbitration Process under Article 4, and the written statement of a Member responding to a Complaint in the Processional Standards Process under Article 5;

lxxiii. "**Respondent**" means the Member who is a Brokerage which a Claimant has filed a case against and who shall be represented by the Broker of Record or such other person as the Broker of Record may authorize in writing in the Arbitration Process or any Member against whom a Complaint has been made in the Professional Standards Process;

lxxiv. **"Salesperson"** means an individual who has the prescribed qualifications to be registered as a Salesperson under the Act and who is employed by a Brokerage to trade in real estate; and

lxxv. **"User"** means a person authorized by of PropTx to access the PropTx MLS® System.

ARTICLE 2 – ARBITRATION PROCESS

Section 1 – Arbitration Roster Composition and Powers

1.01 The Association shall appoint the following Members as part of the Arbitration Roster for the purpose of the Arbitration Process:

a. The Arbitration Chair; and

b. The Arbitration Hearing Roster.

1.02 The Arbitration Roster shall have the jurisdiction and power to hear or settle all Claims that fall under Article 2.

1.03 The Arbitration Chair may be appointed as a member of any Panel described in this Article and Article 5.

1.04 No person shall serve as Arbitration Hearing Panel or Mediator in any Claim where that person:

a. Has either directly or indirectly, any personal or financial interest in the outcome of the Complaint;

b. Is related by either blood, marriage or common law partnership, or adoption to either the Respondent or Complainant or any officer, director, shareholder, partner or employee of either the Respondent or Complainant; or

c. There is any other reasonable basis for an apprehension of bias.

1.05 The Arbitration Roster shall be made up of Members who are Brokerages, Brokers and Salespersons, and none of whom shall be members of the Professional Standards Review Roster or the Professional Standards Hearing Roster. In order to qualify to be a member of the Arbitration Roster, a Member must also have a minimum of three (3) years of Membership in the Association. The Arbitration Chair may appoint such other persons as Arbitration Hearing Panel members as deemed appropriate. Members of the Arbitration Roster shall serve for staggered rotating terms of two (2) years or until their successors have been appointed or until their term shall have otherwise been terminated in accordance with these Policies.

1.06 Where an Arbitration Hearing is required, the Arbitration Chair shall appoint an Arbitration Hearing Panel, comprised of four (4) members of the Arbitration Roster to hear and determine the Claim, one of whom shall be appointed as Arbitration Hearing Panel Chair. Quorum for the conduct of an Arbitration hearing shall be three (3) Members of the Arbitration Hearing Panel present, one of which shall be the Arbitration Hearing Panel Chair.

1.07 Where there are not at least three (3) members of the Arbitration Roster who would qualify as Arbitration Hearing Panel Members, then the Arbitration Chair may appoint any other Member who is a Brokerage or a Broker who qualifies to act as on the Arbitration Hearing Panel.

1.08 If the Claim is heard by an Arbitration Hearing Panel consisting of three (3) members of the Arbitration Roster, the Arbitration Hearing Panel Chair shall be entitled to vote on the Award. However, if the Claim is heard by a Hearing Panel of four (4) members of the Arbitration Roster, the Arbitration Hearing Panel Chair shall not be entitled to vote on the Award. The Award of the Arbitrators shall be decided by a majority of the votes cast by the Panel Members entitled to vote.

1.09 Claims involving Residential transactions will be heard by a panel of Residential Members. Claims involving Commercial transactions will be heard by a panel of Commercial Members experienced in the related field under discussion. The Chair of a Commercial Hearing Panel shall be a Commercial Member. In Commercial Claims, consideration may also be given to common practices within the different areas of specialization surrounding a Commercial transaction such as the use of mandate letters, and/or such other business practices.

1.10 The Arbitration Roster shall have custody of all documents, information and all other materials in all Claims arbitrated. All such files and information are confidential and are to be disclosed only to a member of the Arbitration Roster, the Board of Directors as required, the Hearing Panel under Section 1.11 below, the Parties involved in matters that proceed before a panel, a Mediator appointed under Section 5 hereof, the Appeal Panel and to another real estate board or association or to RECO in pursuance of a Membership application before that board or in the case of RECO, further disciplinary or licensing matter. Subject to a use permitted under Section 1.11 below, all such confidential information and files so disclosed are solely for use by the recipient thereof in considering the matter before the Committee and the applicable panel, for resolution of the dispute, or considering the Membership application in respect of which the disclosure has been made and not for any other purpose whatsoever.

1.11 In circumstances where any matter is to be referred by the Arbitration Hearing Panel to the Professional Standards Review Roster, the Arbitration Chair may make the files and records available to the Professional Standards Review Roster on a confidential basis for the purposes of carrying out the process set out in Article 4.

1.12 The Arbitration Chair shall have the power to delegate to the Panel Secretary the powers described in Subsections 1.05, 1.06, 1.08, 2.03, Section 5, Subsection 6.01 and Subsection 7.01.

Section 2 – Submission to Arbitration

2.01 Subject to Subsection 2.09 below, all Members agree with the Association and every other Member to submit all Claims with any other Member to Arbitration as provided in this Article.

2.02 Subject to Subsection 2.09 below, no legal action or other proceeding shall be taken by any Member with respect to the subject matter of a Claim and no court shall intervene in matters governed hereunder.

2.03 The Association shall have jurisdiction over:

a. Arbitration Claims received from Brokerages only;
b. Claims from Brokerages who are Members of the Association. In instances where a Claim concerns Brokerages from different PropTx Associations, the Association to which the Respondent belongs to shall have jurisdiction to hear the case. As required, any findings requiring enforcement by an PropTx association shall be enforced by that Association Board of Directors in accordance with Subsection 11.02; and
c. Claims that fall under the Arbitration Guidelines in Article 3.

2.04 The Association shall not have jurisdiction over:

a. Claims against Non-Members (ex. Claims against builders or Brokerages who are not Association Members);
b. Claims for transactions during the holdover period;
c. Claims concerning exclusive listings; and
d. HST discrepancies.

2.05 Upon the filing of a Claim with the Association, the Arbitration Chair may decline to proceed:

a. If there is no jurisdiction for a Claim with the Association;
b. If the time period provided by Section 3 hereof, as may have been extended pursuant thereto, expired before the Claim was filed; or
c. If there is no merit to the Claim.

2.06 In the event that the Arbitration Chair has refused to proceed, the Panel Secretary shall forthwith notify the Claimant that the file is closed.

2.07 Any Claimant to whom Notice is given under Subsection 2.04 hereof shall be notified of the right to disagree with the determination of the Arbitration Chair and require the issue of jurisdiction raised thereby to be heard by the Arbitration Chair or such other person as the Arbitration Chair deems appropriate to hear the matter as a Preliminary Motion under Subsection 2.06 hereof. Notice must be given to the Association in writing by a disagreeing Claimant within fourteen (14) days of the date of the Panel Secretary's Notice given under Subsection 2.04 hereof, failing which the Arbitration Chair's decision shall be final and binding, and not subject to appeal.

2.08 At any time prior to a hearing, a Party to a Claim may bring a Preliminary Motion to be heard by written submission regarding objections to jurisdiction of the Arbitration Roster, or such other matters which may be raised and are accepted by the Arbitration Chair or such other person designated by the Hearing Panel Chair to hear the matter(s), whose decision is conclusive and binding on the parties, and not subject to appeal.

2.09 At any time prior to a hearing, the Claimant and Respondent may, in writing, agree to have the matters addressed in the Claim determined by a court of competent jurisdiction. Once such an agreement has been entered into, the matters set out in such Claim shall not be subject to Arbitration and such agreement and the determination of such court shall be final and binding on the Claimant and the Respondent and not subject to appeal.

Section 3 – Filing a Claim

3.01 The Arbitration Roster shall not have jurisdiction to process or otherwise deal with a Claim unless:

a. It is in writing, signed by or on behalf of the Claimant and delivered to the Panel Secretary and shall be in the form as may be prescribed by the Association from time to time;
b. It is delivered together with the filing fee required under Subsection 3.01.c of this Article to the Panel Secretary not later than sixty (60) days from the closing date or within a further period as the Arbitration Chair may allow; and
c. The Claim is accompanied by a filing fee of an amount equivalent to five percent (5%) of the amount of commission in dispute, or the sum of one thousand dollars ($1,000.00), whichever is the greater, provided that in no event shall the filing fee exceed two thousand five hundred dollars ($2,500.00).

3.02 The Claim shall contain a brief and concise statement of the reasons in support of the Claim and the amount being claimed as well as a statement that the Claimant will abide by the Award.

3.03 The Claimant shall attach to the Claim such documents, records and other writings as are in the Claimant's possession upon which the Claimant intends to rely, and such documents, records and other writings shall be deemed to become part of the Claim.

3.04 The filing fee referred to in Subsection 3.01.c hereof shall be refunded to the Claimant or retained by the Association based on the following:

a. if an Arbitration hearing is scheduled for the Claim, the Association shall retain the filing fee. However, if the Claimant substantiates the Claim, the Respondent shall reimburse the Claimant for the filing fee.
b. if the Arbitration Claim is withdrawn before a date has been scheduled for an Arbitration hearing, the Association shall return the filing fee. If the Claim is withdrawn any time after the hearing date is scheduled, then the filing fee shall be forfeited.

Section 4 – Filing a Response

4.01 When a Claim is received, the Panel Secretary shall forthwith forward a copy of the Claim to the Respondent.

4.02 In a Notice, the Panel Secretary shall advise in writing that the Respondent has fourteen (14) days from the sending of the Notice in which to file a Response.

4.03 The Response shall:

a. Be in writing, addressed to the Arbitration Chair and delivered to the Panel Secretary;
b. Contain a brief and concise statement of the position of the Respondent with respect to the Claim and the reasons therefor;
c. Have attached to it such records, documents and other writings as are in the Respondent's possession and upon which the Respondent intends to rely, and such documents, records and other writings shall be deemed to become part of the Response; and state that the Respondent shall abide by the Award of the Arbitration Hearing Panel.

4.04 The Panel Secretary shall forthwith, upon receipt, forward a copy of the Response to the Claimant.

4.05 If the Respondent fails to deliver a Response within the required fourteen (14) days, or fails or refuses to appear at a hearing, the Arbitration Hearing Panel:

a. May still proceed with the Arbitration and issue an Award based on the Claim and the evidence presented at the Arbitration; and
b. May order the Respondent to pay an amount to the Claimant as compensation for such failure to file or refusal to appear in accordance with Section 9.02 hereof.

Section 5 – Mediation

5.01 After the Response deadline has lapsed and before setting a date for the Arbitration hearing, the Claimant and Respondent shall meet virtually with a Mediator to facilitate the Parties in reaching a mutually acceptable resolution in advance of the hearing.

5.02 The Arbitration Chair shall establish a date for the Mediation, appoint a Mediator and the Notice of Mediation shall be sent to the Parties at least fourteen (14) days in advance of the Mediation date.

5.03 Postponements to the Mediation process will not routinely be granted. Subject to approval by the Arbitration Chair, a Party may submit a request concisely detailing the reason(s) for a proposed postponement within seven (7) days following receipt of the Notice of Mediation whereby the Arbitration Chair may consider:

a. The reason for the request and any relevant documentation in support thereof;
b. The consent of the other Party;
c. Any previous delays incurred, including the number and length of any previous adjournments or postponements; and
d. The Parties' consent to certain conditions which may be imposed on any of them in accordance with Subsection 5.04, if the proposed postponement or adjournment is granted.

5.04 In granting a postponement, the Arbitration Chair may impose such conditions as it considers appropriate, including an imposition of costs against the Party requesting the postponement in accordance with Subsection 9.02.

5.05 If the Claimant and/or the Respondent fail(s) to attend the Mediation within fifteen (15) minutes of the scheduled commencement time, the Mediator will cancel the Mediation session and issue a Certificate of Non-Compliance against said Party.

5.06 Upon issuance of a Certificate of Non-Compliance by the Mediator, the Arbitration Chair may order the non-compliant Party pay an Administrative Penalty of up to $1,000.00 plus HST which must be paid within fourteen (14) days of receipt of the Certificate of Non-Compliance.

5.07 Where the Claimant and Respondent agree to a resolution of the Claim, the Mediator shall prepare a settlement agreement setting out the terms agreed upon and the Claimant and Respondent shall sign the settlement agreement showing that they agree to be bound by the settlement agreement.

5.08 Such a settlement agreement, once signed by the Claimant and Respondent, shall be deemed to be an Award for the purposes of Subsection 8.05 hereof, except that there is no right to appeal such an Award.

5.09 A copy of such a settlement agreement shall be given to the Panel Secretary as well as to the Claimant and Respondent.

5.10 Where a meeting with the Mediator does not lead to a resolution of the Claim, the Mediator shall advise the Panel Secretary in writing that the Claim could not be resolved. The Mediator shall not discuss with anyone any of the matters discussed, statements made, or positions taken by either the Claimant or Respondent at any meeting with the Mediator.

5.11 Where a meeting with the Mediator does not lead to a resolution of the Claim, the Claim shall proceed in accordance with this Article.

5.12 If the Mediation is unsuccessful in resolving the Claim, and the matter proceeds to an Arbitration hearing, the Mediator shall not be permitted to participate in any manner at such Arbitration hearing and the Claimant and Respondent may not enter into evidence any matters discussed or statements made or positions taken by either the Claimant or Respondent at any meeting with the Mediator, as such discussions shall be deemed to have taken place on a "without prejudice" basis.

Section 6 – Arbitration Hearing

6.01 After the Mediation, the Arbitration Chair shall establish a fixed date, time and place for the hearing and Notice of the hearing shall be sent to the Parties by the Panel Secretary at least twenty-one (21) days in advance of the Arbitration hearing date.

6.02 The Claimant and Respondent shall be entitled to submit documentary evidence to the Arbitration Hearing Panel. Copies of all documents may be submitted with the Claim or Response, but both the Claimant and Respondent shall bring originals of all documents to the hearing and be prepared to produce same for inspection along with digital certificates (where applicable) if requested by the Hearing Panel.

6.03 A document or written statement or an audio or visual record must have been submitted to the Arbitration Hearing Panel and the other Party to the proceedings at least fourteen (14) days before the date of the Arbitration hearing to be received in evidence, unless the Arbitration Hearing Panel Chair, in their discretion, determines otherwise at the Arbitration hearing. The Arbitration Hearing Panel Chair may also order such Party to pay an amount in compensation to the other Party for such delay or failure to file pursuant to Subsection 9.02 hereof.

6.04 The Claimant and Respondent each shall have the right to call, as a witness, anyone who has knowledge of facts concerning the Claim, whether or not that person is a Member.

6.05 Where a Claimant or Respondent intends to call one or more witnesses at an Arbitration hearing, it shall so notify, in writing, the Panel Secretary, who shall in turn notify the other Party to the proceeding. Such notice is to be received by the Panel Secretary at least fourteen (14) days prior to the date of the Arbitration hearing or Mediation and shall contain the full legal name, address and telephone number of the witness, unless the Hearing Panel Chair, in its discretion, determines otherwise at the Arbitration hearing. Pursuant to Subsection 9.02 hereof, the Hearing Panel Chair may also order such Party to pay an amount in compensation to the other Party for any delay in providing such notice.

6.06 At an Arbitration hearing or Mediation, the Claimant and Respondent may each be represented by legal counsel. If either Party is to be represented by legal counsel they shall so notify, in writing, the Panel Secretary. Such notice is to be received by the Panel Secretary at least fourteen (14) days before the date set for the Mediation or Hearing. Pursuant to Subsection 9.02 hereof, the Arbitration Hearing Panel Chair may also order such Party to pay an amount in compensation to the other Party for any delay in providing such notice. A Claimant or Respondent may also be represented by a Member in lieu of their own attendance which is a Brokerage, Broker or Salesperson, as long as such Member is not a member of the Arbitration Roster, Appeal Roster or a member of the Association Board of Directors, unless that Member is a member of the same Brokerage as the Respondent or the Claimant, or the Mediator appointed to try to settle that particular Claim.

6.07 The Arbitration Hearing Panel may retain legal counsel to sit at the hearing and advise the Arbitration Hearing Panel on any matters of law or procedure, but such legal counsel shall not take part in the deliberation or decision of the Hearing Panel.

Section 7 – Postponements and Adjournments

7.01 Postponements and adjournments will not be routinely granted. In determining whether to adjourn the hearing the Arbitration Chair or Hearing Panel Chair, as applicable, may consider any relevant factors, including:

a. The reason for the request and any relevant documentation in support thereof provided within fourteen (14) days following receipt of the Notice setting out the date of the Arbitration hearing;
b. The consent of other Party;
c. Previous delays incurred, including the number and length of previous adjournments or postponements; and
d. The parties' consent to conditions which might be imposed if the adjournment or postponement is granted.

7.02 In granting the adjournment or postponement, the Hearing Panel Chair or Arbitration Chair, as applicable, may impose such conditions as it considers appropriate, including an imposition of costs against the Party requesting the adjournment or postponement to be paid to the other Party pursuant to Section 9 of this Article.

Section 8 – Award of the Arbitration Hearing Panel

8.01 The Award shall:

a. Be in writing;
b. Contain the reasons for the Award;
c. Be signed by the Arbitration Hearing Panel Chair; and
d. Be forwarded to the Panel Secretary.

8.02 The Arbitration Hearing Panel, by their Award, may:

a. Dismiss the Claim; or
b. Direct the disposition of the commission in dispute as they consider proper;
c. Refer the matter for Professional Standards review; and
d. Require payment by the Respondent to the Claimant of any fee paid by the Claimant under Section 3 herein.

8.03 At the time of the granting of the Award, the Arbitration Hearing Panel may make such order as to costs and/or compensation permitted under this Article as it deems appropriate.

8.04 Recognizing that the facts presented in connection with each Claim are almost always unique, under no circumstances shall the Award in any given case set a precedent and no Award shall be cited in connection with any future Claim. Each Claim shall be decided upon its merits and upon the circumstances attendant thereto.

8.05 Subject to the Appeal rights provided for in these Policies, the Award of the Arbitration Hearing Panel is conclusive, final and binding upon any and all Parties to the Claim and all Parties shall act in compliance with the Award.

8.06 Notice of the Award shall be given by the Panel Secretary to the Parties to the Claim within seven (7) days following delivery of the Award to the Panel Secretary, and shall attach a copy of the Award signed by the Arbitration Hearing Panel Chair hearing the Claim.

Section 9 – Costs and Penalties

9.01 The Arbitration Hearing Panel may award a successful Party costs for the preparation and filing of pleadings.

9.02 If the Arbitration Hearing Panel is satisfied that a Party has unduly complicated or prolonged a Claim or Arbitration hearing or has otherwise acted unreasonably (including any failure to file documents or Notices in accordance with Subsections 4.05, 5.04, 6.03, 6.05, 6.08 above), the Arbitration Hearing Panel may order the Party to pay compensation to another Party. The maximum amount of compensation that may be awarded is $1,000.00.

Section 10 – Interest on Award

10.01 Money owing under an Award bears pre-award interest from the date of closing of the subject transaction to the date of the Arbitration Award at the Bank of Canada rate in effect at the date of the closing of the subject transaction.

10.02 Money owing under an Award bears post-award interest at the Bank of Canada rate in effect at the date of the Award. Post-award interest will only start to accrue if the Award is not paid within fourteen (14) days of the date of the Award. However, if the Award is not paid within fourteen (14) days of the date of the Award, interest will be calculated from the Award date.

10.03 Notwithstanding the foregoing, the Arbitration Hearing Panel may, in its discretion, in respect of the whole or any part of the amount of Award which is payable:

a. Disallow interest on the Award;
b. Allow interest at a rate higher or lower than is provided in either Section 10.01 or 10.02; or
c. Allow interest for a period other than that provided for in the applicable Section.

10.04 For the purpose of exercising its discretion in Section 10.03, the Arbitration Hearing Panel may take into account:

a. The circumstances of the case;
b. The amount claimed and the amount recovered in the proceeding;
c. The conduct of any party that tended to shorten or lengthen unnecessarily the duration of the proceeding; and
d. Any other relevant consideration.

10.05 For the purposes of this Section, the "**Bank of Canada rate**" means the Bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the banks listed in Schedule 1 of the *Bank Act* (Canada).

Section 11 – Failure to Comply

11.01 Subject to Subsection 2.01 of this Article, if any Member fails to submit a Claim to Arbitration under this Article or Article 5 and instead proceeds to any action or proceeding at law or equity, such failure may be dealt with under the provisions of Article 5 as a breach of this Policy.

11.02 If any Member fails to comply with any Award, or the Certificate of Non-Compliance within fourteen (14) days after Notice has been given under Sections 5 and 8 hereof, the Board of Directors may, at any subsequent meeting of the Board of Directors, and without further proceedings, expel the non-complying party from Membership in the Association or suspend the Membership of such non-complying party from Membership in the Association for such period as the Board of Directors may in its sole discretion determine.

Section 12 – Successor Brokerage Liable

12.01 In the event that a Member which is a Brokerage, in this section the "**Successor Brokerage,**" acquires sufficient assets of another Member which is a Brokerage, in this section the "**Seller Brokerage,**" by purchase, merger or other form of transaction of reorganization such that the Seller Brokerage ceases to be a Member of the Association and if a Claim is or has been submitted to Arbitration under Section 2 hereof involving the Seller Brokerage, the Successor Brokerage shall replace the Seller Brokerage as a party to such Arbitration and be bound by all the provisions of these Policies.

Section 13 – Exclusion of the Arbitration Act, 1991, S.O. 1991, c.17

13.01 The Association, its Members, and all parties to a Claim hereby agree to exclude application of the provisions of the *Arbitration Act*, *1991* (Ontario) – as amended from time to time – from Arbitrations and Appeals conducted by the Association pursuant to this Article, save those provisions thereof (Subsection 5(4) and Sections 19, 39, 46, 48, 50) from which, pursuant to Section 3 of the *Arbitration Act, 1991* (Ontario) (as may be amended from time to time), contracting out is expressly prohibited.

ARTICLE 3 – ARBITRATION GUIDELINES

Section 1 – Procurement

1.01 The Procurement Rule focuses on who obtained the accepted offer, and whether there was any imprudent or unethical conduct in procuring such offer. Procurement also concerns scenarios where there is a reduction in a Commission offered by a Listing Brokerage due to unethical or imprudent conduct by the Listing Brokerage. Any of the Guiding Principles under the Procurement Rule may be the subject of an Arbitration Claim.

1.02 It shall be imprudent or unethical for a Member to ignore the existence of an existing Representation Agreement or induce a breach of such Representation Agreement with another Brokerage Member for the purpose of having a Buyer or Seller deal with the Member regarding the same property or types of property for which the Buyer or Seller is already committed under the existing Representation Agreement.

1.03 If it is found that a Member had procured an offer unethically pursuant to Subsection 1.02, that Member shall be referred to Professional Standards.

1.04 Where confidentiality is a factor in a transaction, the Claimant, in filing the Claim, must provide written documentation from the client/prospect in support of the request/demand for confidentiality.

Section 2 – Unpaid Commission/Commission Shortfall

2.01 Listing Brokerages that dispute the Co-operating Brokerage's right to claim the co-operating portion of the commission are not entitled to withhold payment. In these instances, the Co-operating Brokerage must be paid in accordance with the MLS® Rules and Policies. The Listing Brokerage must pay the commission in question, and then make a Claim pursuant to the requirements of Article 2. If the Listing Brokerage substantiates its Claim, the Co-operating Brokerage will be obligated to return the commission to the Listing Brokerage.

2.02 In the event the Listing Brokerage withholds commission, the withholding may lead to a Professional Standards review.

2.03 The Co-operating Brokerage is entitled to receive the amount of commission advertised on the MLS® System at the time of the registration of an Offer unless the Listing and Co-operating Brokerage agree in writing to the contrary prior to the acceptance of an offer. The failure of the Listing Brokerage to comply with this requirement (as embodied in the PropTx MLS® Rules) is the basis of an Arbitration Claim.

2.04 The Hearing Panel takes the position that the Listing Brokerage cannot arbitrarily reduce the total commission payable by the Seller and proportionately reduce the commission payable to the Co-operating Brokerage unless that change and reduction are communicated to the Membership. A Co-operating Brokerage remains entitled to

the full co-operating portion of the commission in accordance with the terms as published on the Multiple Listing Service®. The foregoing can, of course, be modified by the Listing and Co-operating Brokerages if they agree to a different commission. Any change to a commission payable must be in writing.

Section 3 – Actions Designed to Circumvent Claims and Professional Standards Consequences

3.01 All Members are expected to act in accordance with the PropTx Code of Conduct, MLS® Rules and Policies. Accordingly, any unethical action designed to defeat the Claim of another Member is improper will result in the referral to Professional Standards.

ARTICLE 4 – PROFESSIONAL STANDARDS PROCESS

Section 1 – Application of Article and Power

1.01 The Provisions of this Article applies to all Members. If any party to a Professional Standards ceases to be a Member and joins another PropTx Association, the matter shall be forwarded to the new association for disposition in accordance with this Article.

1.02 The Manager or their delegate may upon receipt of a written Complaint from any source whatsoever, and after a jurisdictional review has been conducted in accordance with the provisions of Section 3 herein, proceed to review the conduct of any Member.

1.03 At any time after having received a Complaint, the Manager in its sole and absolute discretion decide that no further action should be taken in respect of the matter under review and such decision shall not be subject to review or appeal.

1.04 Any Member may be subject to an audit of their PropTx MLS® Listing from time to time. Failure to comply in full, with the audit will be deemed a complaint under Subsection 1.02.

1.05 All Members, shall be deemed to have received and to have read the APS Policies, the PropTx MLS® Rules, the PropTx Code of Conduct, CREA Code, and the RECO Code, and have agreed to abide by them. Any breach of the APS Policies, PropTx MLS® Rules, the PropTx Code of Conduct, CREA Code or the RECO Code by any Member, may be dealt with by the Professional Standards Roster as provided for in these APS Policies, including forwarding the matter to RECO, as provided for in these APS Policies.

1.06 All Brokerages are responsible for Members registered with that Brokerage. Accordingly, any act or omission by any Member of section1.05 may likewise be a breach of that provision by the Brokerage with whom the Member is registered and in addition, depending on the facts and circumstances of the particular case, a Brokerage may be in breach of any other specific provisions of which a Member is charged. For purposes of clarity, it is hereby confirmed that each Member shall at all times be responsible for themselves, notwithstanding that each Brokerage is additionally responsible for Members registered with that Brokerage.

Section 2 – The Professional Standards Chair and Rosters Composition

2.01 The Board of Directors shall appoint the following as part of the Professional Standards Roster for the purpose of the Professional Standards Process:

a. The Professional Standards Chair;
b. The Professional Standards Review Roster; and
c. The Professional Standards Hearing Roster

2.02 The Professional Standards Chair may be appointed as a member of any Panel described in this Article and Article 5.

2.03 No person shall serve on any Panel described in this Article where that person:

a. Has either directly or indirectly, any personal or financial interest in the outcome of the Complaint;
b. Is related by either blood, marriage or common law partnership, or adoption to either the Respondent or Complainant or any officer, director, shareholder, partner or employee of either the Respondent or Complainant; or
c. There is any other reasonable basis for an apprehension of bias.

2.04 The Professional Standards Review Roster and Professional Standards Hearing Roster shall consist of Brokerages, Brokers and Salespersons, none of whom shall be members of either the Arbitration Roster, Appeal Roster or Professional Standards Hearing Roster and all of whom shall have been Members for at least three (3) years. Members of the Professional Standards Review Roster and the Professional Standards Hearing Roster shall hold office for staggered rotating terms of two (2) years or until their successors have been appointed or until their tenure of office shall have otherwise been terminated in accordance with these Policies.

2.05 The Chair shall appoint a Professional Standards Review Panel ("**PSRP**") consisting of four (4) members of the Professional Standards Review Roster, one of whom shall serve as Professional Standards Review Panel Chair, to review and consider any complaint so assigned to it by the Chair. Quorum for a PSRP Shall Be three (3) members of the PSRP present, including the Professional Standards Review Panel Chair. wherever possible, the Chair shall select Members of the PSRP from the same Membership category and professional of practice as that of the Member against whom a Complaint has been made.

2.06 Where a Professional Standards Hearing is required, the Chair shall appoint a Professional Standards Hearing Panel consisting of four (4) members of the Professional Standards Hearing Roster, one of whom shall be appointed as the Professional Standards Hearing Panel Chair. Quorum for a Professional Standards Hearing Panel shall be three (3) members of the Professional Standards Hearing Panel present including the Professional Standards Hearing Panel Chair. Wherever possible, the Chair shall select members of the Professional Standards Hearing Panel from the same Membership category and professional area of practice as that of the Respondent. Where the Complaint is against a Member that is a Brokerage, Chair shall, wherever possible, select only Members who are Brokerages as Members of the Professional Standards Hearing Committee.

2.07 Where there are not at least three (3) Members of the relevant Roster who would qualify as PSRP Members or Professional Standards Hearing Panel Members, then the Professional Standards Chair may appoint any other Member which is a Brokerage or a Broker who qualifies to act as on the PSRP Members or Professional Standards Hearing Panel.

2.08 The Professional Standards Chair shall have the power to delegate to the Panel Secretary the powers described in Subsections 2.05, 2.06, and 5.05.

Section 3 – Jurisdictional Review

3.01 Where the Panel Secretary receives a written Complaint, or if PropTx and/or the Association has a self-initiated Complaint alleging a breach or misconduct by a Member, such Complaint shall first be reviewed for timeliness and jurisdiction.

3.02 Complaints shall be made in writing in the form as may be prescribed by the Board of Directors from time to time and are to be delivered to the Association within sixty (60) days of the alleged occurrence or conduct giving rise to the Complaint. The Manager or their delegate may decide that no further action should be taken in respect of any Complaint where the occurrence or conduct giving rise to the Complaint occurred more than sixty (60) days before the written Complaint was received or where the conduct complained of has been rectified to the satisfaction of the Manager.

3.03 The issue of jurisdiction with respect to the matter complained of shall be reviewed and be determined whether:

a. The Complaint will be dealt with in its entirety in accordance with this Article;
b. The Complaint will be returned to the Complainant for referral to RECO;
c. The Complaint will be dealt with in part in accordance with this Article and in part returned to the Complainant for referral to RECO; or
d. No further action will be taken with respect to the Complaint.

3.04 The Manager or their delegate, as the case may be, under the supervision of the Chair, shall, in their sole and absolute discretion, make the decision required by Subsection 3.03 based upon a review of the Complaint, a comparison of the RECO Code, the CREA Code, the PropTx MLS® Rules, PropTx Code of Conduct, agreements entered into with the Association, any other rule, regulation or policy of the Association and a review of these APS Policies. Such decision shall be final and not subject to review or appeal.

3.05 Once the decision required by Subsection 3.03 has been made, the Complainant, except where the Complainant is the Association, shall be advised if it is determined that all or a portion of the Complaint should be dealt with in accordance with this Article. The Complainant shall not be further notified of the status or outcome of the review of the Complaint, except in accordance with Subsection 14.03 of this Article.

3.06 Where RECO has assumed jurisdiction over a Complaint or any portion of a Complaint, the Professional Standards Roster will continue to have jurisdiction over the subject matter of the Complaint unless RECO requests in writing that the Association defer or suspend its Professional Standards Process. In such case the Complainant and Respondent shall be so advised within fourteen (14) days of receipt of such an order and any materials gathered in connection with the Professional Standards review of the Complaint shall be forwarded to RECO upon an order in writing from RECO. In such cases, the Association reserves the right to resume the matter upon the resolution of the RECO investigation.

Section 4 – Complaint Review

4.01 Where a decision has been made pursuant to Subsection 3.03 that all or a portion of a Complaint should be dealt with in accordance with this Article, the Manager or their delegate, under the supervision of the Chair, shall determine in its sole and absolute discretion whether to:

a. Take no further action in respect of the Complaint;
b. Appoint a Researcher to research the Complaint in accordance with Section 5 of this Article and, where the Researcher prepares a written report under Section 5.05 of this Article, either because (i) the Respondent has failed to rectify the Complaint in accordance with Subsection 5.03 of this Article; or (ii) the Researcher has determined the Complaint is not capable of rectification, prepare an Allegation Statement, attaching the Researcher's report, and proceed in accordance with Section 6 of this Article; or
c. Prepare an Allegation Statement and proceed in accordance with Section 9 of this Article. The decision under this Section shall not be subject to review or appeal under this Article or to a court of competent jurisdiction.

4.02 Where the process set out under Section 5 below is completed and a report of a researcher is provided to the Manager or their delegate, under the supervision of the Chair, shall determine in its sole discretion whether to carry out the actions set out in Subsection 4.01 herein.

Section 5 – Powers and Responsibilities of Researcher

5.01 Any Researcher appointed to research a Complaint shall have the power to require any Member to produce, and the Member shall produce, all records, documents and writings or other items within the possession or control of the Member that may be required as part of the research and to answer any question related thereto, subject to proper objection.

5.02 Where a Member improperly fails or refuses to produce the documents and records requested by the Researcher, such failure or refusal shall be considered a breach of these Policies and shall be dealt with by the PSRP in accordance with the provisions of this Article.

5.03 Upon completion of the research of the Complaint, and if the Researcher under the supervision of the Chair has determined the Complaint is capable of rectification, the Researcher shall contact the Respondent and provide the Member with two (2) Days, or such longer period as the Researcher may determine reasonable or necessary in the circumstances, to rectify the Complaint.

5.04 Where the Complaint is rectified by the Respondent within the time required in Section 5.03, then no further action will be taken by the Committee, the Professional Standards Review Roster, the PSRP, the Professional Standards Hearing Roster or the Appeal Roster in respect of the Complaint. No such decision shall be subject to review or appeal under these Policies.

5.05 Where the Respondent fails to rectify the Complaint in accordance with Section 5.03 or where the Researcher under the supervision of the Chair has determined the matter is not capable of rectification, the Researcher shall prepare and file a written report of their findings under Section 5.06.

5.06 The Researcher's written report of the Complaint shall be filed with the Panel Secretary and attached thereto shall be copies of all records, documents or writings obtained in the course of the research. Unless otherwise authorized by these Policies, the report is confidential and shall only be available to Members participating in the review of such Complaint.

Section 6 – Allegation Statement and Response

6.01 Pursuant to Section 4.01, where a Researcher has been appointed and has prepared a report or where the Manager has determined decided to prepare an Allegation Statement, the following applies.

6.02 The Allegation Statement shall set out in writing the specific misconduct or omission which the Respondent is alleged to have done or failed to do, specifying the particular section of these APS Policies, PropTx MLS® Rules, the PropTx Code of Conduct, and any other rule, regulation or policy of the Association or the particular paragraph of the CREA Code which the Respondent is alleged to have violated or with which the Respondent has not complied. The Allegation Statement may be accompanied by a proposed Special Administrative Penalty or Offer to Settle as described in Sections 8 or 9 below. Any refusal of the accompanied proposed Special Administrative Penalty or Offer to Settle will forgo the proceedings in Section 7 and Section 9 and be referred to the Professional Standards Hearing Panel in accordance with Section 10.

6.03 In a written Notice, the Panel Secretary shall forward to the Respondent a copy of the Allegation Statement and the Researcher's Report, if any. The Respondent shall have seven (7) days from the date of the Notice in which to file a Response with the Panel Secretary.

6.04 The Response shall:

a. Be in writing, addressed and delivered to the Panel Secretary;
b. Contain a brief and concise statement of the position of the Respondent with respect to the Complaint and the reasons therefore; and have attached to it such records, documents and other writings as are in the Respondent's possession and upon which the Respondent intends to rely, and such documents, records and other writings shall be deemed to become part of the Response.

6.05 The Allegation Statement, attaching the Researcher's report, if any, and Response, if any, shall be forwarded to the PSRP appointed by the Professional Standards Chair to review the Complaint described in the Allegation Statement.

Section 7 – Professional Standards Review Panel

7.01 Where an Allegation Statement has been sent to the Respondent in accordance with Sections 4 and 6, a PSRP shall be appointed consisting of a chair and three (3) other persons chosen in accordance with Section 2.05. This PSRP shall conduct a review of the Allegation Statement, the Researcher's report, if any, and the Response, if any, and shall determine in its sole and absolute discretion whether to:

a. Find that the Respondent has not engaged in the conduct set out in the Allegation Statement and no further action should be taken;
b. Determine whether a Special Administrative Penalty should be levied in accordance with Section 8;
c. Require the Respondent (or in the case of a Member that is a Brokerage, its Broker of Record) to attend and successfully complete a specified educational course from an accredited institution as stipulated by the Association, provided that confirmation of such successful completion is delivered to the Panel Secretary within thirty (30) days of the decision being issued or within a longer period of time as the PSRP may prescribe;
d. Require the Respondent to take such corrective action as may be determined by the PSRP to rectify the conduct that gave rise to the Allegation Statement and was the subject matter of the Complaint. Confirmation that the corrective action has been completed and/or the conduct has been rectified in accordance with the decision made by the PSRP shall be delivered by the Respondent to the Panel Secretary within seven (7) days of the decision being issued or within a longer period of time as the PSRP may prescribe;
e. impose (b), (c) and/or (d);
f. issue a warning letter (a "**Reprimand**") to the Respondent warning the Respondent against a repeat occurrence of the conduct that gave rise to the Allegation Statement; or
g. Proceed to a Professional Standards hearing.

7.02 A request to be referred directly to the Professional Standards Hearing Panel and forgo the sanctions levied by the PSRP must be filed by the Respondent within seven (7) days from the date the PSRP decision is sent to the Respondent. The request is to be in writing, addressed and delivered to the Panel Secretary. Failure to submit such a request will result in a requirement to comply with the PSRP in full by the stipulated deadlines.

7.03 In the event that the Allegation Statement is reviewed by a PSRP consisting of three (3) panel members, the Professional Standards Review Panel Chair shall be entitled to vote in determining the appropriate decision under Section 7.01. However, in the event that the Allegation Statement is reviewed by a PSRP of four (4) panel members, the Professional Standards Review Panel Chair shall not be entitled to vote. The decision of the PSRP shall be determined by a majority of the votes cast by the panel members entitled to vote. No such decision shall be subject to review or appeal under these Policies or to a court.

7.04 In determining which of the options under Section 7.01 is appropriate, the Professional Standards Review Panel may take into account any prior findings occurring within a period of two (2) years of violation for any breaches of this Article, any rules, policies, or guidelines of the Association, or the CREA Code or Rules. The Respondent shall be advised by the Panel Secretary of such decision in writing.

Section 8 – Special Administrative Penalties

8.01 Where the Respondent has been notified that a Special Administrative Penalty is applicable pursuant to Sections 6 or 7, the Respondent may choose to pay the Special Administrative Penalty. Payment of the Special Administrative Penalty must be received by the Association in full within fourteen (14) days of sending the Notice of the decision of the PSRP under Section 7 or within such further time as the PSRP may allow.

8.02 Where the Respondent has been notified of the application of a Special Administrative Penalty, and pays the applicable fine, a violation shall be recorded in respect of the Complaint and the matter shall not be referred to the Professional Standards Hearing Roster nor shall it form the basis of the subject of a Professional Standards Hearing or an Appeal as set out in these Policies.

Section 9 – Agreement to Settle

9.01 Where the Respondent has been notified of a Complaint or that the PSRP determined that the Respondent should proceed to a Professional Standards Hearing, each individual Respondent will also be notified they may elect to have an Offer to Settle and forgo the Professional Standards Hearing. If a request for an Offer to Settle is not received, in writing, within fourteen (14) days from the Notice of decision of the PSRP, the matter will be referred to the Professional Standards Hearing Roster.

9.02 The Offer to Settle shall be communicated to the Respondent by the Panel Secretary.

9.03 If no response is received within fourteen (14) days of receipt of the decision in 9.02 or if such terms have been refused, the matter will be referred to the Professional Standards Hearing Panel. Any discussions surrounding settlement shall be deemed to have taken place on a "without prejudice" basis.

9.04 If an Agreement to Settle is confirmed by the Respondent, the Respondent will be required to comply with the terms in full.

Section 10 – Jurisdiction of the Professional Standards Hearing Roster

10.01 The Professional Standards Hearing Roster upon referral of a matter by the PSRP or if requested by the Respondent in accordance with Section 7.02 shall:

a. Hold a hearing in accordance with this Article to determine if the Respondent has engaged in the conduct as set out in the Allegation Statement; and
b. Upon determining that the Respondent has engaged in conduct set out in the Allegation Statement, impose such penalties against the Respondent as are hereinafter provided.

Section 11 – Professional Standards Hearing

11.01 The Panel Secretary shall determine a date, time and place for the Professional Standards Hearing. Such hearing shall be conducted on an anonymous basis upon the initiative of the Association and without involvement of the Complainant except as the Case Presenter may require as a witness. Such Notice shall be forwarded to the Parties at least twenty-one (21) days prior to the date of the Professional Standards Hearing.

11.02 At the Professional Standards hearing, a Case Presenter shall present the facts which support the Complaint on behalf of the Association as described in the Allegation Statement.

11.03 At a Professional Standards hearing, the Respondent may be represented by legal counsel, and the Panel Secretary shall be notified in writing at least fourteen (14) days before the date set for the Professional Standards hearing. The Respondent may also be represented by a Member in lieu of their own attendance, provided that the Respondent may not be represented by a Member who is a Member of the Professional Standards Review Roster, PSRP, the Professional Standards Hearing Roster, the Professional Standards Hearing Panel, the Appeal Roster or the Professional Standards Hearing Appeal Panel, or a Member of the Board of Directors unless that Member is a member of the same Brokerage as the Respondent. The Professional Standards Hearing Panel may retain legal counsel to sit at the Professional Standards hearing and advise the Professional Standards Hearing Panel on all matters of law or procedure, but such legal counsel shall not take part in any deliberation or decision of the Professional Standards Hearing Panel.

11.04 On the date set for the Professional Standards Hearing, the Professional Standards Hearing Panel shall proceed to hear and determine the matters contained in the Allegation Statement, and the failure of the Respondent to attend the Professional Standards Hearing shall not prevent the Professional Standards Hearing Panel from proceeding to make a determination.

11.05 The Professional Standards Hearing Panel may:

a. Adjourn any Professional Standards Hearing from time to time as set out in Section 12 below;
b. Proceed in such manner as it deems appropriate and without being bound by the rules of evidence or legal rules, provided that it shall consider the best evidence available;
c. Receive evidence under oath or by affirmation, or otherwise; and/or
d. Use any acceptable method of recording the Professional Standards Hearing, including, but not limited to, audio or video tape, recording secretary or stenographer.

11.06 The Respondent shall be entitled to submit documentary evidence to the Professional Standards Hearing Panel. Copies of all documents may be submitted with the Response, but the Respondent shall bring originals of all documents to the Professional Standards Hearing and be prepared to produce same for inspection along with digital certificates (where applicable) if so requested by the Professional Standards Hearing Panel.

11.07 A document or written statement or an audio or visual record must have been submitted to the Professional Standards Hearing Panel at least fourteen (14) days before the date of the Professional Standards Hearing to be received in evidence, unless the Professional Standards Hearing Panel Chair, in its sole and absolute discretion, determines otherwise.

11.08 The Case Presenter and the Respondent shall have the right to call, as a witness, anyone who may have knowledge of the facts concerning the matter in question, whether or not that person is a Member.

11.09 Where the Case Presenter or Respondent intends to call one or more witnesses at the Professional Standards Hearing, it shall so notify, in writing, the Panel Secretary, who shall in turn notify the other party to the proceeding. Such notice is to be received by the Panel Secretary at least fourteen (14) days prior to the date of the Professional Standards Hearing, unless the Professional Standards Hearing Panel Chair determines otherwise at the Professional Standards Hearing, and the notice shall contain the full legal name, address, and telephone number of the witness.

Section 12 – Postponements and Adjournments

12.01 Postponements and adjournments of the Professional Standards Hearing will not be routinely granted. In determining whether to adjourn the Professional Standards Hearing, the Professional Standards Hearing Panel Chair, as applicable, may consider relevant factors, including:

a. The reason for the request and any relevant documentation in support thereof provided within fourteen (14) days following the receipt of the Notice setting out the date of the hearing;
b. The consent of the other Party;
c. Previous delays incurred, including the number and length of previous adjournments or postponements; and
d. The Parties' consent to conditions which might be imposed if the adjournment or postponement is granted.

12.02 In granting the adjournment or postponement, the Professional Standards Hearing Panel Chair or the Appeal Panel Chair, as applicable, may impose such conditions as it considers appropriate, including an imposition of costs against the Party requesting the adjournment or postponement. The maximum amount available for costs awarded is $1,000.00.

Section 13 – Decision and Penalties of the Professional Standards Hearing Panel

13.01 If the Complaint is heard by a Professional Standards Hearing Panel consisting of three (3) Panel Members, the Professional Standards Hearing Panel Chair shall be entitled to vote in determining the decision of the Professional Standards Hearing Panel. However, if the Complaint is heard by a Professional Standards Hearing Panel of four (4) panel members, the Professional Standards Hearing Panel Chair shall not be entitled to vote. The decision of the Professional Standards Hearing Panel shall be determined by a majority of the votes cast by the panel members entitled to vote. The decision of the Professional Standards Hearing Panel shall:

a. Be in writing and shall contain the reasons for the decision;
b. Be signed by the Professional Standards Hearing Panel Chair; and
c. Specify, if any, the penalty imposed.

13.02 The Professional Standards Hearing Panel in its decision may:

a. Find that the Respondent has not engaged in the conduct set out in the Allegation Statement;
b. Upon finding that the Respondent has engaged in the conduct set out in the Allegation Statement, impose on the Respondent one or more of the following penalties:
    i. A reprimand;
    ii. A fine of not less than one hundred dollars ($100.00) and not more than fifty thousand dollars ($50,000.00), as such amounts may be amended from time to time by PropTx;
    iii. Require the Respondent to pay the costs of the Professional Standards Process as incurred by the Association;
    iv. Direct the Respondent (or in the case of a Member who is a Brokerage, its Broker of Record only) to attend and successfully complete a specified educational course from an accredited institution as stipulated by the Association, provided that confirmation of such successful completion is delivered to the Panel Secretary within thirty (30) days of the decision being issued;
    v. Recommend to the Board of Directors such further action as the Professional Standards Hearing Panel may consider appropriate in the circumstances including without limitation removal as a member from any Committee, Task Force or as a director (if applicable) and/or suspension for such period of time as determined by such Panel to be appropriate and/or expulsion from membership in the Association; and/or
    vi. Require the Respondent to take such corrective action as may be determined by the Professional Standards Hearing Panel to rectify the conduct that gave rise to the Allegation Statement and was the subject matter of the hearing before the Professional Standards Hearing Panel. Confirmation that the corrective action has been completed and/or the conduct has been rectified in accordance with the decision made by the Professional Standards Hearing Panel shall be delivered by the Respondent to the Panel Secretary within seven (7) days of the decision being issued.

13.03 If the Respondent is found in violation, the Professional Standards Hearing Panel shall determine an appropriate penalty pursuant to the provisions of Section 13.02. In doing so, the Professional Standards Hearing Panel may consider any prior findings occurring within a period of two (2) years of violation for any breaches of these Policies, any rules, Code of Conduct, or guidelines of the Association, or the CREA Code. The Respondent shall be advised by the Panel Secretary of such decision in writing.

13.04 Recognizing that the facts presented in connection with each Complaint are almost always unique, under no circumstances shall the Professional Standards Hearing Panel's decision in any given case set a precedent and no decision shall be cited in connection with any future Complaint. Each Complaint shall be decided upon its merits and upon the circumstances attendant thereto.

Section 14 – Notice of the Professional Standards Hearing Panel Decision

14.01 A copy of the Professional Standards Hearing Panel decision shall immediately be given to the Panel Secretary who shall forward a copy to the Parties to the Professional Standards Hearing within twenty-one (21) days of receipt of same.

14.02 Where an Appeal is not filed in accordance with Article 7, the decision of the Professional Standards Hearing Panel may be communicated to all Members, without revealing the name or any other information which may reveal the identity of the Respondent except in the case of expulsion from (or suspension of) membership, in which case the Association may note in its communications to its Members that the Respondent has been expelled or suspended from membership for a certain period of time.

14.03 Provided the Complainant has requested in writing that the Association advise such Complainant of the outcome of the review of the Complaint, the Association shall do so only after the applicable appeal periods have expired without an Appeal being commenced, when appeal rights have been extinguished, or when the applicable Appeals have either been completed or discontinued.

14.04 Subject to the Appeal provisions set out in Article 5, the decision of the Professional Standards Hearing Panel shall be final and binding upon the Parties thereto and shall be considered effective as of the date of the decision, unless otherwise provided in the decision.

14.05 For the purpose of this Article, the "Professional Standards Hearing Panel decision Compliance Date" for each Professional Standards Hearing shall be paid or performed according to the decision of the Professional Standards Hearing Panel or, if the Professional Standards Hearing Panel does not set a specific date for the payment or performance of the penalty in its decision, fourteen (14) days from the date upon which the Professional Standards Hearing Panel decision is delivered to the Respondent.

Section 15 – Failure to Comply

15.01 If the Respondent fails to comply with a PSRP decision, a Professional Standards Hearing Panel decision, or an Agreement to Settle by the Compliance Date, the Board of Directors may, at any subsequent meeting of the Board of Directors and without further proceedings, restrict or suspend access to MLS® services, expel the Respondent from Membership in the Association or suspend the Respondent's Membership in the Association for such period as the Board of Directors may in its sole discretion determine.

ARTICLE 5 – APPEALS

Section 1 – The Appeal Roster Composition

1.02 The Association shall appoint an Appeal Roster composed of Members which are Brokerages, Brokers and Salespersons, none of whom shall be Members of the Arbitration Roster, the Professional Standards Review Roster or Professional Standards Hearing Roster and all of whom have been Members for at least three (3) years. Members of the Appeal Roster shall hold office for staggered rotating terms of two (2) years or until their successors have been appointed or until their tenure of office shall have otherwise been terminated in accordance with these Policies. The Members of the Appeal Roster will hear all Appeals of all Arbitration and Professional Standards Hearing decisions.

1.03 Where an Appeal has been filed, the Appeal Chairs shall appoint an Appeal Panel. The Appeal Panel shall consist of four (4) members of the Appeal Roster, one of whom shall be appointed as the Appeal Panel Chair. Quorum for the conduct of an Appeal Hearing shall be three (3) members of the Appeal Panel present, including the Appeal Panel Chair. Wherever possible, the Appeal Chairs shall endeavour to select Members of the Appeal Panel from the same membership category and professional area of practice as that of the Appellant, if available.

1.04 Where there are not at least three (3) members of the Appeal Roster who would qualify as Appeal Panel Members, then Appeal Co-Chairs may appoint any other Member which is a Brokerage or a Broker who qualifies to act as on the Appeal Panel.

1.05 The Appeal Chairs shall have the power to delegate to the Panel Secretary the powers described in Subsections 1.03, 3.01, and 3.03 herein.

Section 2 – Arbitration Appeals

2.01 Subject to Section 2.05 hereof, a Claimant or Respondent may appeal an Arbitration Award, in accordance with the following provisions.

2.02 An Arbitration Appeal shall only be with respect to the question of whether the Arbitration Hearing Panel had the jurisdiction to make the Award or whether there was a denial of natural justice.

2.03 Where an Arbitration Appeal is filed, the Award shall, subject to the provisions of Subsection 2.05, be suspended pending discontinuance or disposition of the Appeal. Notwithstanding such suspension, interest shall continue to accrue on the Award in accordance with Section 10 of Article 2.

2.04 Until:

a. The period to file an Appeal has elapsed and no Appeal has been filed;
b. An Appeal has been commenced and has either been completed or discontinued; or
c. The Appeal rights have been extinguished as provided for in Section 2.05 below,

neither party to the Arbitration hearing may ask a Court to enforce the Award, and it is agreed by all Members that there will not exist any valid basis for such Court action until either or both parties have complied with the appropriate provisions of these Policies.

2.05 The Appeal Panel shall not have jurisdiction to process, hear or otherwise deal with an Arbitration Appeal:

a. Unless the Appellant files the Appeal in Form "A" within ten (10) days of the Appellant receiving the Award;
b. Unless the duly completed Form "A" is received by the Arbitration Chair within such ten (10) day period. The Form "A" must identify reasons that satisfy grounds for Appeal. Should the grounds lack a supporting argument, the Arbitration Chair in their sole and absolute discretion shall have the power to refuse the Appeal. An amended Appeal can be submitted provided that it is before the Appeal deadline;
c. Unless the Appeal is accompanied by a filing fee of an amount equivalent to five percent (5%) of the amount of commission in dispute, or the sum of one thousand dollars ($1,000.00), whichever is the greater, provided that in no event shall the filing fee exceed two thousand five hundred dollars ($2,500.00);
d. Unless the Appellant pays the costs of the transcript or other summary of evidence of the proceeding of the Arbitration Hearing Panel within ten (10) days of the issuance of the transcript invoice unless the Appellant pays the costs of the transcript or other summary of evidence of the proceeding of the Arbitration Hearing Panel within ten (10) days of the issuance of the transcript invoice; and
e. If the Appellant, for any reason, ceases to be a Member either during the period of time during which it may file an Appeal or at any time during the Appeal process described in this Article.

2.06 Once an Appeal has been filed, the Association will order a transcript of original proceedings to be included in the record of the Arbitration hearing, as described in Section 4.01 of this Article. As described in Section 2.05.d, the Appellant shall be responsible for paying the costs of such transcripts, as invoiced.

Section 3 – Reply to the Arbitration Appeal

3.01 Upon receipt of the Arbitration Appeal, the Arbitration Chair shall forward a written Notice of Appeal to the Appeal Respondent.

3.02 The Appeal Respondent shall file with the Arbitration Chair a reply to the Appeal that responds to the matters raised in the Arbitration Appeal (the "**Reply**"). The Reply shall be filed within fourteen (14) days from the date of the Notice.

3.03 When the Arbitration Chair receives the Reply, they shall immediately forward a copy of the same to the Appellant.

3.04 If the Appeal Respondent fails to deliver a Reply within the prescribed time period, or fails or refuses to appear at an Arbitration Appeal hearing, the Appeal Panel may proceed to hear and determine the matter only upon the Appellant's attendance at the Appeal

hearing and/or upon the Form "A" having been filed by the Appellant and the Reply, if any, having been filed by the Appeal Respondent.

Section 4 – Record of Arbitration Hearing

4.01 For purposes of this Article, the record of the Arbitration hearing shall include the following as it relates to the Arbitration hearing being appealed:

a. The Claim;
b. The Response;
c. All Notices sent to the Claimant and Respondent by the Arbitration Chair or Panel Secretary;
d. Any transcript or other summary of the evidence of the proceedings;
e. All exhibits entered in evidence at the Arbitration hearing;
f. All signed documents including, hearing checklists and acknowledgements; and
g. The Award.

Section 5 – Arbitration Appeal Hearing

5.01 The Panel Secretary shall notify the Appellant and Appeal Respondent, in writing, of the date, time and place that the Arbitration Appeal is to be heard. Such Notice shall be forwarded to the Parties at least twenty-one (21) days prior to the date of the Arbitration Appeal hearing.

5.02 At the Arbitration Appeal hearing, the Appellant or Appeal Respondent may each be represented by legal counsel. If either Party is to be represented by legal counsel they shall so notify, in writing, the Panel Secretary. Such notice is to be received by the Panel Secretary at least fourteen (14) days before the date set for the Appeal hearing. The Appellant or Appeal Respondent may also be represented by a Member in lieu of their own attendance which is a Brokerage, Broker or Salesperson, as long as such Member who is a Brokerage, Broker or Salesperson is not a member of the Professional Standards Review Roster, Professional Standards Hearing Roster, Arbitration Roster, Appeal Roster or a member of the Association Board of Directors, unless that Member is a member of the same Brokerage as the Appellant or Appeal Respondent. The Arbitration Appeal Panel may retain legal counsel to attend at the Appeal hearing and advise the Appeal Panel on any and all matters of law, but such legal counsel shall not take part in the deliberation or decision of the Appeal Panel.

5.03 The Appellant and the Appeal Respondent shall be given full opportunity to present both oral and written arguments at the Arbitration Appeal hearing.

5.04 No new evidence shall be called at the Arbitration Appeal hearing, since the Arbitration Appeal is to be decided solely upon the evidence as contained in the record of the Arbitration Hearing as described in Section 4 of this Article.

5.05 Where the Appellant fails to appear at the Arbitration Appeal hearing, the Appeal shall be dismissed and, there shall be no further rights to Appeal pursuant to this Article.

Section 6 – Arbitration Appeal Postponements and Adjournments

6.01 Postponements and adjournments will not be routinely granted. In determining whether to adjourn the Appeal hearing the Appeal Panel Chair may consider any relevant factors, including:

a. The reason for the request and any relevant documentation in support thereof provided within fourteen (14) days following receipt of the Notice setting out the date of the Arbitration hearing;
b. The consent of other Party;
c. Previous delays incurred, including the number and length of previous adjournments or postponements; and
d. The parties' consent to conditions which might be imposed if the adjournment or postponement is granted.

6.02 In granting the adjournment or postponement, the Appeal Hearing Panel Chair or Arbitration Chair, as applicable, may impose such conditions as it considers appropriate, including an imposition of costs against the Party requesting the adjournment or postponement to be paid to the other Party. The maximum costs that may be awarded is $1,000.00.

Section 7 – Disposition of the Arbitration Appeal

7.01 The Arbitration Appeal Panel appointed under Section 1 of this Article may:

a. Dismiss the Appeal;
b. Grant the Appeal;
c. Amend the Award as the Appeal Panel deems appropriate;
d. Remit the subject matter of the Appeal back to the Arbitration Chair for a new Arbitration hearing, and at the Appeal Panel's discretion by a differently constituted Hearing Panel; and/or
e. Order that the filing fee paid to the Association by the Appellant be:
    i. Retained by the Association either in part or in whole, to cover its costs of handling the Appeal;
    ii. Returned to the Appellant in whole, or in part; and/or
    iii. Reimbursed to the Appellant by the Appeal Respondent in an amount equal to all or any part of the filing fee paid.

7.02 If the Arbitration Appeal is heard by an Appeal Panel consisting of three (3) panel members, the Appeal Panel Chair shall be entitled to vote in determining the Appeal decision. However, in the event that the Appeal is heard by an Appeal Panel of four (4) panel members, the Appeal Panel Chair shall not be entitled to vote. The Appeal decision shall be decided by a majority of the votes cast by the panel members entitled to vote. The Appeal decision shall:

a. Be in writing and shall contain reasons for the decision;
b. Be signed by the Appeal Panel Chair; and
c. Set out the disposition of the Appeal.

7.03 The Arbitration Appeal decision shall be final and binding.

7.04 A copy of the Arbitration Appeal decision shall be delivered to the Appellant and Appeal Respondent by the Panel Secretary within seven (7) days of receipt of the decision by the Panel Secretary.

7.05 The Arbitration Appeal decision may be communicated to all Members, without revealing the name or any other information which may reveal the identity of the Appellant except in the case of expulsion from (or suspension of) membership. In which case the Association may note in its communications to its Members, that the Appellant has been expelled or suspended from membership for a certain period of time.

Section 8 – Professional Standards Appeals

8.01 Subject to Section 8.03 hereof, a Respondent may appeal a Professional Standards Hearing Panel decision, in accordance with the following provisions.

8.02 The Professional Standards Appeal may be from a finding that the Respondent the Appellant engaged in the conduct set out in the Allegation Statement or from the penalty imposed, or both.

8.03 The Appeal Panel does not have jurisdiction to process, hear or otherwise deal with a Professional Standards Appeal:

a. Unless the Appellant files the Appeal in Form "B" within ten (10) days of the Appellant receiving the Award;
b. Unless the duly completed Form "B" is received by the Professional Standards Chair within such ten (10) day period. The Form "B" must identify reasons that satisfy the grounds for Appeal. Should the grounds lack merit the Professional Standards Chair shall have the power to refuse the Appeal;
c. Unless the Appeal is accompanied by a filing fee as set out in Section 8.05; and
d. Unless the Appellant pays the costs of the transcript or other summary of evidence of the proceeding of the Hearing Panel within ten (10) days of the issuance of the transcript invoice.

8.04 The Professional Standards Appeal shall be accompanied by a filing fee of $1,000.00 plus HST. Each individual Appellant with respect to the same decision must pay the prescribed filing fee, and there shall be only one hearing scheduled for all such Appellants. Upon the disposition of the Appeal, the filing fee shall be returned to the Appellant where the appeal is granted.

8.05 The Appellant shall file the Appeal by submitting a duly completed Form "B" that must contain a concise statement of the grounds for Appeal.

8.06 Once a Professional Standards Appeal has been filed, the Association will order a transcript of original proceedings to be included in the record of the Arbitration hearing, as described in Section 9.01 of this Article. As described in Section 8.07, the Appellant shall be responsible for paying the costs of such transcripts, as invoiced.

8.07 The Appeal shall not be processed, dealt with, or heard if the Form "B" is not filed within the 10 (10) day period as set out in Section 8.03 hereof, if the filing fee is not delivered within the same ten (10) day period, or if the Appellant does not pay to the Association the costs of the transcript or other summary of the evidence of the proceedings of the Professional Standards Hearing Panel within ten (10) days of the issuance of the transcript invoice. Failure to comply with this provision will result in the Appeal being dismissed with no further right to Appeal.

Section 9 – Record of the Professional Standards Hearing

9.01 For the purposes of this Article, the record of the Professional Standards Hearing shall include the following:

a. The written Allegation Statement;
b. The written Response, if any;
c. The Researcher's report, if any;
d. All Notices sent to the parties in connection with the Professional Standards Hearing;
e. Any transcript or other summary of the evidence of the proceedings of the Professional Standards Hearing Panel;
f. All exhibits entered into evidence at the Professional Standards Hearing;
g. All signed documents including, hearing checklists and acknowledgements; and/or
h. The decision of the Professional Standards Hearing Panel.

Section 10 – Professional Standards Appeal Hearing

10.01 The Panel Secretary shall determine a date, time and place for the Professional Standards Appeal to be heard. Such Notice shall be forwarded to the Appellant at least twenty-one (21) days prior to the date of the Appeal.

10.02 No new evidence shall be called at the Professional Standards Appeal, since the Appeal is to be decided solely upon the evidence as contained in the record of the Professional Standards Hearing as described in Section 9 of this Article.

10.03 Where the Appellant fails to appear at the Professional Standards Appeal, the Appeal shall be dismissed and, there shall be no further rights to Appeal pursuant to this Article.

10.04 At the Professional Standards Appeal hearing, the Appellant may be represented by legal counsel. If the Appellant is to be represented by legal counsel they shall so notify, in writing, the Panel Secretary. Such notice is to be received by the Panel Secretary at least fourteen (14) days before the date set for the Professional Standards Appeal hearing. The Appellant may also be represented by a Member in lieu of their own attendance which is a Brokerage, Broker or Salesperson, as long as such Member who is a Brokerage, Broker or Salesperson is not a member of the Professional Standards Review Roster, Professional Standards Hearing Roster, Arbitration Roster, Appeal Roster or a member of the Association Board of Directors, unless that Member is a member of the same Brokerage as the Appellant. The Professional Standards Appeal Panel may retain legal counsel to attend at the Professional Standards Appeal hearing and advise the Appeal

Panel on any and all matters of law, but such legal counsel shall not take part in the deliberation or decision of the Professional Standards Appeal Panel.

Section 11 – Professional Standards Appeal Postponements and Adjournments

11.01 Postponements and adjournments will not be routinely granted. In determining whether to adjourn the Appeal hearing the Professional Standards Appeal Panel Chair may consider any relevant factors, including:

a. The reason for the request and any relevant documentation in support thereof provided within fourteen (14) days following receipt of the Notice setting out the date of the Professional Standards Appeal hearing; and
b. Previous delays incurred, including the number and length of previous adjournments or postponements.

11.02 In granting the adjournment or postponement, the Professional Standards Appeal Hearing Panel Chair may impose such conditions as it considers appropriate, including an imposition of costs to be paid to the Association. The maximum costs that may be awarded is $1,000.00.

Section 12 – Disposition of the Professional Standards Appeal

12.01 The Professional Standards Appeal Panel by its decision may:

a. Dismiss the Appeal;
b. Overturn the decision of the Professional Standards Hearing Panel;
c. Amend the decision of the Professional Standards Hearing Panel as the Appeal Panel deems appropriate;
d. Remit the matter back to the Professional Standards Hearing Roster for a new Professional Standards Hearing, and by a differently constituted Professional Standards Hearing Panel; and/or
e. Impose any of the penalties as set out in Section 13 of Article 4.

12.02 In the event that the Professional Standards Appeal is heard by a Professional Standards Appeal Panel consisting of three (3) panel members, the Professional Standards Appeal Panel Chair shall be entitled to vote in determining the Appeal decision. However, in the event that the Appeal is heard by a Professional Standards Appeal Panel of four (4) panel members, the Appeal Panel Chair shall not be entitled to vote. The Appeal decision shall be decided by a majority of the votes cast by the panel members entitled to vote. The Appeal decision shall:

a. Be in writing and shall contain reasons for the decision;
b. Be signed by the Appeal Panel Chair; and
c. Set out the disposition of the Appeal.

12.03 The Professional Standards Appeal decision shall be final and binding.

12.04 A copy of the Professional Standards Appeal decision shall be delivered to the Appellant by the Panel Secretary within twenty-one (21) days of receipt of the decision by the Panel Secretary.

12.05 The Professional Standards Appeal decision may be communicated to all Members of the Association, without revealing the name or any other information which may reveal the identity of the Appellant except in the case of expulsion from (or suspension of) membership. In which case the Association may note in its communications to its Members, that the Appellant has been expelled or suspended from membership for a certain period of time.

Section 13 – Failure to Comply

13.01 If a Party fails to comply with a decision made by the Appeal Panel by the date specified in the decision, the Board of Directors may, and without further proceedings to restrict or suspend MLS® System services, expel the Respondent from Membership in the Association or suspend the Respondent's Membership in the Association for such period as the Board of Directors may in its sole discretion determine.

ARTICLE 6 – EARLY COMPLAINT RESOLUTION PROCESS

Section 1 – Introduction

The following represents the policy framework for the early resolution of complaints with respect to the data integrity of the PropTx MLS® System.

The Early Complaint Resolution ("**ECR**") Process is intended to:

1. Standardize the protocol undertaken by Association Staff when contacting Members with a request to take corrective action; and
2. Increase efficiencies and reduce costs (a benefit for both staff and the Membership) by minimizing the volume of breaches of the MLS® Rules related to data integrity cases escalated through the Professional Standards process.

The ECR Process is limited to the following:
MLS® Rules: 3.01, 3.04, 3.05, 3.06, 3.07, 3.08, 3.10, 3.13, 3.16, 3.17, 3.20, 4.02 and 5.01
CREA Rule: 11.2.1.3, and 11.3.4
The Policy does not cover:

i. Any Rule/Policy/CREA Rule not noted above
ii. Matters that have been referred to the Professional Standards Roster under the authority of Article4 of these APS Policies

Section 2 – Early Complaint Resolution Process

1. **<u>Stage 1: Initial Notice</u>**

   Where it is determined that an identifiable infraction of the applicable rules is present, an email notice ("**1st Notice**") will be sent to the Broker of Record **and** Listing Salesperson(s)/ Broker(s), **and** Manager located within the office of the Listing Salesperson(s)/Broker(s), if applicable to the email registered with the Association. Where there are multiple Managers within the same Brokerage office, the Association will select the first Manager listed within its Membership Database.

   The 1st Notice will indicate (i) the nature of the complaint; (ii) the required steps to correct the infraction; and (iii) provide a one (1) Business Day deadline for compliance.

   a. If the MLS® Listing Is Rectified

   If the matter is rectified by the User, no further action will be taken by the Association and the file will be closed.

   b. If the MLS® Listing Is Not Rectified

   i. If corrective action is not completed by the deadline and the Listing Salesperson(s) has not received a second notice for the same Rule in a two (2) year period, a second notice ("**2nd Notice**) will be sent in accordance with Stage 2 below.

ii. If corrective action is not completed by the deadline and the Listing Salesperson(s) has received a second Notice for the same Rule in a two (2) year period, the Member(s) will be referred directly to the Professional Standards Roster.

2. <u>Stage 2: 2nd Notice and Warning</u>

Where it is determined that a complaint can be rectified (previously unrectified 1st Notice) and the Listing Salesperson has not been put on 2nd Notice by the Association within the two (2) year period for the same rule, an Association Staff Member will contact the Respondent by email and provide one (1) additional day to take corrective action. The 2nd Notice will include a notification that failure to comply by the deadline will result in the immediate application of the applicable Special Administrative Penalty.

The email shall be directed to the same recipients and convey (i) the nature of the complaint; (ii) the required steps to correct the infraction; and (iii) provide a one (1) Business Day deadline for compliance.

Of note, in all cases, the Association Staff shall only speak with the individual(s) that is/are party to the complaint (i.e., Listing Salesperson, Broker of Record or Authorized Designate to the Broker of Record).

i. **If the MLS® Listing Is Rectified**
If the matter is rectified by the Member, no further action will be taken by the Board and the file will be closed.

ii. **If the MLS® Listing Is Not Rectified**
If corrective action is not completed by the deadline, the listing will be subject to the applicable Special Administrative Penalty.

3. <u>Stage 3: Non-Compliance with Special Administrative Penalty and/or Corrective Action</u>

When the Special Administrative Penalty is sent, the Respondent will be provided with seven (7) days to either comply or appeal the decision of the Chair.

i. **Appeal of Special Administrative Penalty:** A formal appeal will initiate the complete Professional Standards Process in accordance with Article 4.

ii. **Non-compliance and no Appeal:** Should the Respondent neither comply with the Special Administrative Penalty nor submit a request for referral to the Professional Standard Roster by the deadline, the Respondent's Membership will be *suspended* until compliance is achieved in full. If compliance with the Special Administrative Penalty has not been achieved by the time the next year's Membership fees are due, the Respondent's Membership with the Association will be terminated.

Section 3 – Final Notice

For repeat offenders, a Final Notice will be delivered when three (3) total Notices have been delivered in a two (2) year period for the same rule. Thereby, any future DIS Complaints will not be subject to the ECR Process and will be directed for review by the Professional Standards Roster under Article 4.

ARTICLE 7 – SPECIAL ADMINISTRATIVE PENALTIES

The failure to comply with the PropTx MLS® Rules, will be subject to the to the Schedule herein to be used by the PSRP as per Article 4 and in the Early Complaint Resolution Process as per Article 6 on a cumulative, per listing/per breach basis. Subsequent violations by a Salesperson within a two (2) year period are subject to the escalated penalties herein. Likewise, Brokerages to which the Salesperson belongs may be subject to the same penalties.

GENERAL		
2.01	These PropTx MLS® Rules shall be interpreted in accordance with RECO Rules, the CREA Rules, and all applicable laws and regulatory requirements. If any PropTx MLS® Rules or CREA Rules conflict with the RECO Rules or any applicable laws or regulatory requirements, the conflicting MLS® Rules or CREA Rules will be considered inoperative for the purposes of these MLS® Rules to the extent of such conflict.	First Breach: $500.00 Repeat Breach: $1,000.00
2.04	All Members shall abide by the RECO Rules, the CREA Rules, the PropTx MLS® Rules as adopted from time to time, and the Authorized User Agreement as amended, restated, or replaced from time to time and by all applicable laws and regulatory requirements. No Member shall act in a manner so as to attempt to avoid or circumvent the RECO Rules, the CREA Rules or these PropTx MLS® Rules, or any applicable laws or regulatory requirements.	First Breach: $1,000.00 Repeat Breach: $2,000.00
2.05	When requested in writing by the Association, the Listing Brokerage shall forward to the Association a copy of any documentation pertaining to an MLS® Listing Agreement by 11:59 p.m. of the next Business Day.	First Breach: $500.00 Repeat Breach: $1,000.00
2.06	All Members shall comply, in full, with any audit conducted by the Association. Brokerages shall redact any remuneration information when documentation is requested pursuant to an audit.	First Breach: $5,000.00 Repeat Breach: $10,000.00
LISTING INFORMATION AND DOCUMENT ATTACHMENTS		
3.01	Members are responsible for the accuracy of all information submitted to the MLS® System including photographs and all documentation. No language in the MLS® Listing shall be used to override or diminish this responsibility. The Association is not obligated to or responsible for reviewing the accuracy or propriety of any MLS® Data Information Form, MLS® Listing Agreement or Document Attachments. Members must immediately correct any inaccuracy and notify the Association when necessary.	First Breach: $1,000.00 Repeat Breach: $2,000.00

3.02	By submitting an MLS® Listing to the MLS® System, the Member represents and warrants to the Association and to all Members that a valid, complete, and accurate MLS® Listing Agreement and Document Attachments that comply with the applicable requirements of the MLS® Rules is in effect between the Seller and the Listing Brokerage and that MLS® Listing is complete and accurate. The submission of a Listing to the PropTx MLS® System shall not affect the Listing Brokerage's ownership rights in the Listing Brokerage's MLS® Listing Agreement and Document Attachments with the Seller.	First Breach: $1,000.00 Repeat Breach: $2,000.00
3.03	All MLS® Listings submitted to the MLS® System shall be completed on current approved MLS® Listing Agreements and MLS® Data Information Forms.	First Breach: $300.00 Repeat Breach: $600.00
3.04	All remarks must appear in the appropriate field of an MLS® Listing as follows: a) The public facing fields shall only display comments which provide pertinent information concerning the property, including, but not limited to, descriptions of the property, information about renovations, etc.; b) The Broker Remarks field shall only display comments which provide pertinent information that could impact Co-operating Brokerages, including, but not limited to: i. Any terms of the MLS® Listing Agreement that would modify either the total remuneration payable to the Listing Brokerage or the offer of remuneration payable to the Co-operating Brokerage; and ii. Seller contact information; c) The Offer Remarks field shall display all comments related to the registration of Offers and Seller direction, including, but not limited to: i. The date and time of an offer presentation; ii. If a Seller is reserving the right to review pre-emptive Offers; and iii. Seller direction that the Co-operating Brokerage not be in attendance during an Offer presentation; and d) The Appointment/Showing Remarks field shall display all information related to Showing the property.	First Breach: $500.00 Repeat Breach: $1,000.00
3.05	Information published on the MLS® System shall relate directly to the listed real estate and the MLS® Listing Agreement. Public facing fields of an MLS® Listing shall not include any information that promotes goods and services, or any form of solicitation. Specifically, an MLS® Listing must not include any form	First Breach: $500.00 Repeat Breach: $1,000.00

	of self-promotion of the Member or third-party information, including but not limited to, telephone number, email addresses, and website URLs with the exception that the phrases "visit my website for further information about this Listing" or "visit the REALTOR® website for further information about this Listing." The Brokerage Remarks field may include the name, address, telephone and/or email address or facsimile number of Member(s) to be contacted for more information concerning the property.	
3.07	Without limiting the generality of the foregoing and the other provisions of the MLS® Rules, any such MLS® Listing shall not be accepted by the Association as an MLS® Listing: a) If it excludes any Members from showing the property; b) If it excludes any Members from acting as a Co-operating Brokerage; c) If it is not accompanied by at least one image of the listed real estate subject to the exemption that listed real estate that is not built may use a photograph of the land, an artist rendering, a map indicating the location of the Real Estate or a photograph of the model home with a photograph label indicating as such; or d) If all Mandatory Fields have not been completed. i. Where realty taxes are required to appear on the MLS® System as a Mandatory Field, the amount to be shown shall be the current year's annual taxes or if not available, the prior year's annual taxes. In instances when the current or prior year's annual taxes are not available, an MLS® System field selection indicating "taxes not yet assessed" will be chosen, if available, or the Brokerage Remarks shall be updated to read "taxes not yet assessed." ii. A Mandatory Field will not be deemed complete unless the information in the field is accurate. iii. All registered title holders must be included in the Seller field. If there is insufficient space in the Seller field to list all names, then this information may be continued in the Brokerage Remarks field.	First Breach: $500.00 Repeat Breach: $1,000.00
3.09	A Member submitting an MLS® Listing or Cancellation or a suspension of an MLS® Listing to the MLS® System represents and warrants to the Association that the Member had been so authorized by the person(s) legally entitled to sell the property and agrees to indemnify and hold PropTx and the Association harmless from all claims of third parties if this is not the case.	First Breach: $1,000.00 Repeat Breach: $2,000.00

3.10	Only one (1) MLS® Listing for any one (1) trade function signed by the same Seller may be placed on the MLS® System at any one (1) time. The following are examples of what are considered separate trade functions under this Rule: a) Sale/Lease; b) Furnished/Unfurnished; and c) Sale by property Owner/Power of Sale. For Commercial MLS® Listings, up to three (3) Property types are permitted on the MLS® System at the same time. Properties with both Residential and Commercial uses may be listed in both Residential and Commercial classes.	First Breach: $500.00 Repeat Breach: $1,000.00
3.11	All properties that are to be traded separately shall be listed separately	First Breach: $500.00 Repeat Breach: $1,000.00
3.12	All properties that are to be traded together must be listed together.	First Breach: $500.00 Repeat Breach: $1,000.00
3.13	An MLS® Listing shall show the names of all Brokerage Members that are party to the MLS® Listing Agreement. If there is insufficient space in the specified field, then this information can be continued in the Brokerage Remarks field.	First Breach: $500.00 Repeat Breach: $1,000.00
3.14	An MLS® Listing Agreement shall run for a period of not less than sixty (60) days from the Commencement date.	First Breach: $500.00 Repeat Breach: $1,000.00
3.15	Any Exclusion shall be in writing and shall not be binding on a Co-operating Brokerage or self-represented party unless notice of the existence of the Exclusion is published on the MLS® System. An MLS® Listing Agreement and Document Attachments that includes an Exclusion that has the effect of limiting a Listing Brokerage's obligations that otherwise would exist under the MLS® Rules shall be subject to refusal or removal from the MLS® System. The provisions of the MLS® Listing Agreement set out under the headings: a) Warranties; b) Family Law Act; c) Verification of Information;	First Breach: $1,000.00 Repeat Breach: $2,000.00

	d) Use and Distribution of Information; e) Successors and Assigns; and f) Conflict or Discrepancy are necessary for the orderly operation of the MLS® System. Notwithstanding any other provisions of the MLS® Rules or CREA Rules, these provisions shall not be amended or deleted.	
3.16	MLS® Listings appearing on the MLS® System shall be immediately available (subject to applicable legislation, the rights of and reasonable accommodation to the occupancy) for showings, inspections, and registration of Offers. Once an MLS® Listing is conditionally sold, the requirement that the MLS® Listing be available for showings shall continue unless otherwise directed by the Seller in writing. The Seller's instructions on showings must be accurately reflected in the MLS® Listing. In the event an existing MLS® Listing becomes unavailable for showings, inspections or registration of Offers, the MLS® Listing shall be suspended by the Listing Brokerage. While under suspension, a record of all requests by Co-operating Brokerages for showings, inspections, and registration of Offers shall be kept by the Listing Brokerage. Upon the Seller rescinding the suspension, the Listing Brokerage shall immediately notify all Co-operating Brokerages who have requested showings, inspections or registration of Offers.	First Breach: $500.00 Repeat Breach: $1,000.00
3.17	MLS® Listings on the MLS® System shall contain all the information necessary for preparing an Offer for Sale, Lease, or Sub-Lease.	First Breach: $500.00 Repeat Breach: $1,000.00
3.18	In all instances when an MLS® Listing Agreement Commences, the Listing Brokerage shall process the MLS® Listing through the MLS® System by 11:59 p.m. the next Business Day following the Commencement date of the MLS® Listing Agreement.	First Breach: $500.00 Repeat Breach: $1,000.00
3.19	In the event an MLS® Listing Salesperson is no longer associated with the Listing Brokerage, the Listing Brokerage shall ensure that the MLS® Listing Salesperson field contains the Broker of Record/Manager's name or the name of a Member who is familiar with the property.	First Breach: $500.00 Repeat Breach: $1,000.00
3.20	Where the lot size of a residential property is irregular, the Listing Brokerage shall report the frontage and the smaller dimension of the	First Breach: $500.00

	depth, and identify irregular as the lot shape on the PropTx MLS® System.	Repeat Breach: $1,000.00
3.21	The Listing Brokerage shall update the MLS® System no later than 11:59 p.m. the next Business Day following any amendment to the MLS® Listing Agreement.	First Breach: $500.00 Repeat Breach: $1,000.00
	REPORTING	
4.01	When an MLS® Listing is processed as both a residential and commercial MLS® Listing on the MLS® System, the trade shall be reported for both MLS® Listing numbers.	First Breach: $500.00 Repeat Breach: $1,000.00
4.02	The sale, lease or sub-lease of a residential or commercial MLS® Listing shall be reported by the Listing Brokerage through the MLS® System, whether conditional or firm, by 11:59 p.m. the next Business Day following acceptance of an Offer. Members shall not be permitted to avoid these notice obligations to the Association by, for example, cancelling an MLS® Listing between receipt (or anticipated receipt) and acceptance of an Offer, or encouraging a Seller to do so. A commercial sale, lease, or sub-lease price shall be Reported: a) Using the original unit of measure on the MLS® Listing; b) At the time of Reporting a firm transaction; or c) At the same time as Reporting a firm transaction, and request that the price be suppressed until after closing. All changes in the status of a Reported conditional sale on the MLS® Listing shall be Reported by the Listing Brokerage on the MLS® System by 11:59 p.m. the next Business Day following the change.	First Breach: $1,000.00 Repeat Breach: $2,000.00
4.03	Any sale during the holdover period shall be Reported to the Association by 11:59 p.m. the next Business Day.	First Breach: $1,000.00 Repeat Breach: $2,000.00
4.04	The Listing Brokerage shall Report if a firm sale falls through, or if a conditional Offer does not become a firm sale, to the Association by 11:59 p.m. the next Business Day.	First Breach: $1,000.00 Repeat Breach: $2,000.00
4.05	Prior to reporting a transaction to the MLS® System, chattels and other elements included in the sale price but not contained in the	First Breach: $1,000.00

	original MLS® Listing Agreement shall be added to the MLS® Listing in the inclusions field.	Repeat Breach: $2,000.00
	ADVERTISING	
5.01	Every image submitted to the MLS® System shall prominently feature the property specific information about the Real Estate Component itself and aspects of the immediate surroundings that relate directly to the Real Estate Component, including, but not limited to, scenery viewed from the Real Estate Component. The following images cannot be included in an MLS® Listing: a) Digitally altered images including the use of any artificial intelligence ("AI") system or technology to create, alter, or enhance images or digital staging that do not accurately depict the listed real estate; b) Images of surrounding amenities that are not in view of the listed real estate; c) Images of advertising or marketing messages with the exception of architectural drawings, floor plans, maps, aerial or distance photographs relating to the listed real estate which is labelled as such; and d) Any persons or digital representations of persons. This Rule does not preclude PropTx or the Association from adding a watermark to the photographs.	First Breach: $500.00 Repeat Breach: $1,000.00
5.02	MLS® Signs placed on properties listed on the MLS® System may display such MLS® Marks and REALTOR® Marks as are authorized by CREA from time to time.	First Breach: $500.00 Repeat Breach: $1,000.00
5.03	MLS® Signs placed on properties that are listed on the MLS® System shall reflect the current status of that MLS® Listing. This includes, but is not limited to, the following instances: a) That the MLS® Sign corresponds with the MLS® Listing status of "For Sale" or "Sold" or "For Lease" or "Leased" as the case may be; b) A Member shall promptly remove their MLS® Sign from property that becomes listed by another Member for the same trade function; and c) A Member shall promptly remove their MLS® Sign from a property where the MLS® Listing is expired, terminated, or suspended.	First Breach: $500.00 Repeat Breach: $1,000.00
5.04	Members other than the Listing Brokerage may not advertise an MLS® Listing unless an MLS® Listing Agreement so indicates and	First Breach: $1,000.00

	Members have received specific written permission from the Listing Brokerage prior to each occasion of advertising.	Repeat Breach: $2,000.00
5.05	By submitting Marketing Materials to the MLS® System the Member warrants to the Association that they have permission to use such Marketing Materials in that manner. Members shall only use Marketing Materials which they have created or purchased, including, but not limited to, all images, graphics, text, and photographs. Any permission to use such information must be provided by written consent.	First Breach: $1,000.00 Repeat Breach: $2,000.00
SHOWINGS AND APPOINTMENTS		
6.02	Subject to the terms of the MLS® Listing Agreement, all appointments with the Seller to show or inspect an MLS® Listing shall be made through the Listing Brokerage or as indicated on the MLS® System.	First Breach: $2,000.00 Repeat Breach: $4,000.00
6.03	Subject to the terms of the MLS® Listing Agreement, the Listing Brokerage shall: a) Make appointments and confirm them without delay; and b) If an appointment cannot be made, the Listing Brokerage shall immediately advise the Co-operating Brokerage requesting the appointment and continue to attempt to arrange an appointment for a time suitable to all parties if requested.	First Breach: $500.00 Repeat Breach: $1,000.00
6.04	Subject to the terms of the MLS® Listing Agreement a Member, who is unable to keep an appointment to show or inspect a MLS® Listing shall immediately advise the Listing Brokerage prior to the appointment, who shall in turn immediately advise the Seller or occupant. In instances when the Listing Brokerage is unable to keep an appointment to show or inspect a MLS® Listing, the Listing Agent shall immediately advise the Member who has the appointment, prior to the appointment, who shall in turn immediately advise the prospective Buyer.	First Breach: $500.00 Repeat Breach: $1,000.00
6.05	Unless otherwise agreed to in writing by the Seller, a Listing Brokerage shall ensure that a Registrant accompanies a non-Registrant during the entire period said non-Registrant is at the property and only during the agreed upon period.	First Breach: $2,000.00 Repeat Breach: $4,000.00

	The Co-operating Brokerage shall be responsible for verifying the identity of its own client prior to booking an appointment to show or inspect an MLS® Listing.	
6.06	When a Listing Brokerage utilizes a Courtesy Office to hold keys or security cards, the Listing Brokerage remains responsible for all keys and security cards provided to the Courtesy Office.	First Breach: $1,000.00 Repeat Breach: $2,000.00
6.07	A Member shall not interfere or tamper with a lock box of another Member.	First Breach: $2,000.00 Repeat Breach: $4,000.00
6.08	A Member who is in receipt of a lock box combination or other access credentials shall not disclose the combination or access credentials to any other person without the consent of the Seller.	First Breach: $2,000.00 Repeat Breach: $4,000.00
6.09	Keys shall be re-deposited in a lock box immediately upon exiting the property and the lock box shall be properly secured.	First Breach: $2,000.00 Repeat Breach: $4,000.00