



MLS-BCS LISTING AGREEMENT

FROM THE BOARD OF DIRECTORS

We are pleased to announce the release of the standard MLS-BCS Listing Agreement.

You may be aware that in September 2022, Mexico passed a new official Norm (NOM-247-SE-2021) that affects providers of real estate services.

Officially described as "commercial practices-requirements for commercial information and advertising of real estate intended for housing and minimum elements that related contracts must contain," this new regulation involves Mexico's Consumer Protection Agency, PROFECO and requires an official, registered contract between Sellers and Brokers.

Nom-247 was originally designed to apply to developers and builders, but real estate transactions were also included. And while normally the prospect of more paperwork and government oversight is not particularly welcomed, in this case, it aligns perfectly with MLS-BCS's already high standards of integrity.

By involving PROFECO and the inclusion of a signed and registered contract, the government is attempting to protect consumers during the process of buying and selling a home.

Nom-247 will benefit an industry where fraud and deception run rampant in non-regulated real estate transactions. The new Listing Agreement empowers Sellers and Brokers through transparency and a clear declaration of their rights as well as offering a path to swift and equitable conflict resolution. It's a win-win for real estate in Mexico and particularly in Baja California Sur.

One important element of the MLS-BCS Listing Agreement, which has met with official PROFECO approval, is the creation of a clause calling for mediation and arbitration in the event of a dispute. This provides an efficient, timely, and legally binding remedy for issues that arise, without the involvement of Mexico's court system, which can be cumbersome and slow to act. Dispute resolution can thus take place within weeks, instead of dragging on for years as it works its way through the legal system.

MLS-BCS has developed a system identifying impartial mediators and legally binding arbitrators for this purpose. Underway is the creation of the BCS Mediation and Arbitration Center under the leadership of Lic. Javier Mazoy (Corredor Público No. 2) and Lic Romina Ruiz (Corredor Público No. 9). We have formed an alliance with already well-established Colegio de Corredores de Jalisco. More to follow on this very exciting industry change for real estate related dispute resolution in BCS.

Explaining the contract to your clients is a simple process. The contract guarantees their rights and the professionalism of the Broker who represents them. (Nom-247 does not apply to private sales directly between Buyers and Sellers, but it is mandatory for anyone who markets real estate to the public- Brokers and Agents.)



The MLS-BCS has worked with attorneys and PROFECO at both the State and Federal level including the office of the National Director and their counsel, in developing the MLS-BCS Listing Agreement which PROFECO has approved and registered. We have also created an Official translation in English.

KEY TOPICS addressed in the Listing Agreement include the following:

- Clients are required to use a third-party **escrow** agency for all deposits and all transactions.
- Agency commission(s) shall be paid directly from **escrow** and allows for 50% of defaulted earnest money to be paid to the Agency up to the limit of the full commission.
- Clients agree to accept, or reject, the use of **electronic signatures** as binding.
- Both parties agree that any litigation, controversy, or claim deriving from or relating to the MLS-BCS Listing Agreement will be governed by Mexico law, and shall be submitted for resolution, exclusively, by mediation and arbitration (binding arbitration) via the, “Colegio de Corredores de Jalisco” as the chosen alternative to the Mexican Court system.

MLS-BCS REQUIRES MANDATORY and exclusive use of this Listing Agreement by all member Agency(s). The MLS-BCS Operating Policies and Procedures (OPP’s) has been modified by the Board requiring exclusive and mandatory use of the MLS-BCS Listing Agreement. Brokers and Agents should begin using it and upon expiration dates of ACTIVE listings, renewal shall be exclusively with this Listing Agreement.

PROFECO REGISTRATION of the Listing Agreement is recommend by the Board to all member Agency(s) and it’s simple to comply. We provide a step-by-step guide and video tutorial on how to register your Agency’s reversion of the Listing Agreement online with PROFECO. The MLS-BCS does not require its Broker members to register with PROFECO, however, its use is mandatory for all Broker members. **Please** do not contact the MLS regarding any matter related to your Agency’s application with PROFECO.

DOCUMENTS BEING DELIVERED – there are eight (8) documents being delivered to every member Broker and subscriber Agent, including the following:

- **Cover letter** from the Board of Directors, introducing the standard MLS-BCS Listing Agreement.
- **MLS-BCS Listing Agreement (Spanish)**, approved by and registered with PROFECO, delivered in pdf.
- **MLS-BCS Listing Agreement (English) official** translation of the Spanish version, delivered in pdf.
- **Spanish “Word®”** version of the Listing Agreement without MLS and PROFECO logos. This version must be used by all member Agency(s) and is the version to be registered with PROFECO by Agency(s).
- **English “Word®”** version of the Listing Agreement, without MLS and PROFECO logos. This version must be used by all member Agency(s).
- **Bilingual “Word®”** version of the Listing Agreement without MLS or PROFECO Logos.
- **PROFECO Registration** guide, as written by Lic. Santiago Mazoy, to assist Agency(s) to register their Listing Agreement.
- **Video Tutorial**, provided by the MLS-BCS, with a step-by-step presentation on how to register the Listing Agreement online with PROFECO.