

# MIAMI ASSOCIATION OF REALTORS®, INC. MULTIPLE LISTING SERVICE 2020

## POLICIES AND PROCEDURES

### I. PURPOSE

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The MIAMI Association of Realtors®, Inc. (herein referred to as MIAMI) shall maintain for the use of its members, and non-member Participants and subscribers, a MLS known as MIAMI MLS(MLS) which shall be subject to the Bylaws of MIAMI, and such Policies and Procedures, also known as Rules and Regulations, as may be hereinafter adopted. These Procedures include the fullest application of the CODE OF ETHICS of the National Association of REALTOR®.

An MLS is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as seller or buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information among the Participants so that participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

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

In view of the fact that the information disseminated by the Service is of confidential nature; and that the Policies and Procedures are based on the CODE OF ETHICS of the National Association of REALTOR®, the Member/Participant is encouraged to promote the membership in MIAMI, Inc. to all salespeople registered with the Member.

### II. SUPERVISION

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The MLS shall be supervised by the Residential Board of Governors of the MIAMI Association of REALTORS®'s, the Broward-MIAMI Board of Governors and the JTHS-MIAMI Board of Governor's (herein called BOGs)

### III. DEFINITION OF PARTICIPANT MEMBER

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Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a MLS owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association MLS is

strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited.

**A. Broker Participant:**

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Additionally, an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law.

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants.

Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by the association's MLS where access to such information is prohibited by law.

**B. Users/Subscriber:**

Additionally, the foregoing does not prohibit the association's multiple listing services, from categorizing non-principal brokers, sales licensees, licensed and certified appraisers and others affiliated with the MLS members or participants as users or subscribers and, holding such individuals personally subject to the rules and regulations and any other governing provisions of the MLS and to discipline for violations thereof. The Association's MLS may, as a matter of MIAMI determination, limit participatory rights to individual principal brokers, or to their firms, and to licensed or certified appraisers, who maintain an office or Internet presence from which they are available to represent real estate sellers, buyers, lessors or lessees or from which they provide appraisal services.

**C. Other:**

Users in connection with the MLS owned and operated by the association of REALTORS®, also include a participant's affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS participant or the participant's licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the rules and regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the participant's ultimate responsibility for ensuring compliance with the rules and regulations of the MLS by all individuals affiliated with the participant.

MLS participatory rights shall be available to any REALTOR® (principal) or any firm comprised of REALTORS® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other participants; and payment of any MLS dues, fees, and charges. Participatory rights granted do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director, except as granted at the discretion of MIAMI.

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held. The MLS may charge participants and subscribers not holding primary or secondary membership in a Realtor® association that owns the MLS a different amount than charged to members of the association, provided that such charge is reasonably related to the actual costs of serving those members

None of the foregoing shall be construed as requiring an association to grant MLS participatory rights, under Board of

Choice, where such rights have been previously terminated by action of that association's board of directors. Failure to disclose if membership was suspended (because of an outstanding assessment failure to return leased products/materials or judgment) by another association, will result in immediate suspension and no refund of monies paid.

#### **MEMBER PARTICIPATION:**

Any REALTOR® member of this or any other Association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS "membership" or "participation" unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an Association MLS is strictly limited to the activities authorized under a Participant licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by an Association MLS where access such information is prohibited by law. (*Amend 11/08*)

In the event membership in MIAMI shall be terminated for any reason, such member's participation in MLS shall be terminated or suspended, as the case may be, from the Service automatically and without the necessity of a hearing.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (*Adopted 11/08*)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (*Adopted 11/08*)

#### **NON-MEMBER PARTICIPATION:**

A nonmember applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the membership committee that he/she has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a participant, he/she will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an association MLS is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association MLS where access to such information is prohibited by law. (*Amended 11/08*)

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (Adopted 11/08)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (Adopted 11/08)

#### **INTERNATIONAL NON-MEMBER PARTICIPATION:**

An international non-member applicant for MLS Participation who is a principal partner, corporate officer, or manager acting on behalf of a principal, shall supply evidence satisfactory to the Association that his primary place of business is outside of the United States, has no record of recent or pending bankruptcy or the equivalent, has no record of official sanctions involving unprofessional conduct, agrees to complete a course of instruction covering the MLS Policies and Procedures, which may be a correspondence course, and shall agree that if elected as a participant, he will abide by such rules and regulations and pay the MLS fees and dues, including any non-member fee differential, as from time to time established. In order to be entitled to MLS International Non-member Participation, an individual must hold a current, valid real estate broker's license in the country or state of their primary place of business is outside of the United States or must provide another form of evidence that he is authorized and recognized to transact real estate business. Use of the information developed by or published by the MLS is strictly limited to the activities equivalent to those authorized under a real estate broker's licensure in the State of Florida, and unauthorized uses are prohibited.

### **Subscriber Types and Definitions**

|                               |  |
|-------------------------------|--|
| <b>Broker of Record</b>       | Licensed by the state real estate licensing authority and is recognized as the principal broker for the firm and has management oversight. |
| <b>Licensees</b>              | Licensed real estate salespersons who are affiliated with a participating Broker of Record.  |
| <b>Associate Brokers</b>      | Real Estate Brokers who operate as managers or salespersons who are subject to the oversight of the Broker of Record.                      |
| <b>Non-licensed Personnel</b> | Administrative and clerical staff, personal assistants, and individuals providing administrative support to the Subscribers.               |
| <b>Appraiser</b>              | Licensed or certified by the state licensing authority to provide valuations of real property  |

## STATUS DEFINITIONS

### Active

Properties currently subject to a listing contract and *reported* to MIAMI MLS in which the *Participant* has been directed by the Seller to:

- set appointments for showings (new construction may not qualify), AND
- seek *agreements of sale* to present to the Seller; AND
- the listing is on the market and a written offer has not been accepted.

### Active Under Contract

Properties in which

- a written offer has been accepted but the Seller agrees to:
  - continue to show the property AND
  - accept backup offers.
- Sub-categories for *Active Under Contract* include, but are not limited to, Kick Out, Third Party Approval, Attorney Review Period, and First Right of Refusal.

### Cancelled

Properties in which the listing contract has been terminated prior to the expiration date.

### Closed

Properties in which

- A successful closing has taken place and title has been transferred from Seller to Buyer or in which possession of a property has been transferred from a lessor to a lessee.
- the agreement of sale has been fulfilled or the lease agreement has been executed.

### Coming Soon (definition only)

Properties currently subject to a listing contract and *reported* to MIAMI MLS in which the *Participant* has been directed by the Seller:

- No *agreement of sale* is currently in effect.
- This listing has not yet been on the market but will be on the market soon. A listing contract has been executed but the property cannot be shown. Expired

### Temporarily Off Market

*Listings* of property in which the Seller has requested the *Participant* to:

- temporarily suspend the marketing of the property, AND
- not set appointments for showings, the listing is expected to come back on market.
- Even though the listing is off market a contract still exists between the seller and the *Participant*.

This Status can be set for a maximum of 30 days and automatically returns to Active on its Back on Market Date.

### Pending

*Listings* of property in which:

- an *agreement of sale* is in effect,
- the settlement has not yet taken place, and

- the *Participant* has been instructed by the Seller to no longer set appointments for showings,
- a written offer has been accepted and the listing is no longer on the market.

### Withdrawn

The *listing* has been *withdrawn* from the market, but a contract still exists between the Seller and the *Participant* and there is no intention to bring the listing back on the market.

All status changes must be reported to the service within *2 business days*.

## **PROPERTY TYPES Definitions**

### Residential

A single-family residence that is for sale. Residential property type will include residential dwellings of one unit.

Two property types currently exist, Single Family Residential (RE1) and Condo, Townhouse, Co-Op (RE2).

### Multifamily

Multifamily property type (RIN) will include 2-4 unit residential properties that are for sale where all units are part of the transactions.

### Land

Vacant Land with no inhabitable improvement that is for sale. Two property types currently exist, Residential Land (RLD) and Commercial Land (CLD).

### Residential Lease

A single-family residence that is for lease. Residential Lease property type (RNT) will include residential dwellings of one unit that are for lease.

### Commercial Sale

Commercial Sale property type (COM) includes buildings that are zoned for commercial use that are for sale or for lease (includes residential dwellings of 5+ units).

### Business Opportunity

Any business for sale that does NOT include the real property, but does include a leasehold interest in real property, which is transferred in conjunction with the business. Business Opportunity property type (BUS)

## **Listing Agreement Definitions**

**Exclusive Right of Sale Listing Agreement.** A written contract between the seller(s) of the property and the participating Broker. This agreement grants the participating Broker the exclusive right to offer the subject property for sale and to compensate other brokers. Listings will be identified by an appropriate code (**ER**) in MLS compilations.

**Exclusive Agency Listing Agreement.** A written contract between the seller(s) of the property and the participating Broker. This agreement grants the participating Broker the exclusive right to offer the subject property for sale and to compensate other brokers. The seller(s) of the property retain the right to sell the property without obligation of commission if sold by themselves and without any licensed agents involved. Listings will be identified by an appropriate code (**EA**) in MLS compilations.

**Exclusive with Exceptions.** Listing Agreement under which the Listing Broker becomes the sole agent of the Seller and the Seller agrees to pay a commission to the Listing Broker regardless of whether the Listed Property is sold through the efforts of the Listing Broker, the Seller or anyone else, except that the Seller may name one or more individuals or entities as exemptions in the Listing Agreement and, if the Listed Property is sold to any exempted individual or entity, the Seller is not obligated to pay a commission to the Listing Broker.

**Joint Agency.** Real estate agents who are jointly employed to assist a buyer reach a deal. All commissions earned from the venture are shared by all parties.

**Limited Service Listings.** Listing agreements under which the listing broker will not provide one or more of the following services: (a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s); (b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s); (c) advise the seller(s) as to the merits of offers to purchase; (d) assist the seller(s) in developing, communicating, or presenting counter-offers; or (e) participate on the seller(s) behalf in negotiations leading to the sale of the listed property.

Limited Service Listings will be identified with an appropriate code or symbol (**LS**) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of the services to listing brokers' clients, prior to initiating efforts to show or sell the property. (Adopted 05/01)

**Note:** *Limited Service Listings must be either an exclusive right to sell/rent/lease (ER), or an exclusive agency (EA) listing as required by state law.*

**Office Exclusive / Exempt Listing.** An exclusive right of sale listing that the seller(s) has been advised of the benefits of the MLS but does not want his listing published and distributed to other members of the Service and has so indicated in writing, as described in Section 1.3. Certification from the owner to not cooperate, offer cooperative compensation, or to inter the listing into the database shall be submitted to MIAMI MLS and kept on file by the *Participant*. Note: Office Exclusives/Exempts must be added to the MLS within one business day after it is publicly marketed. Eff. 4/20/2020

**Variable Dual Rate.** This form of compensation is one in which the seller agrees to pay a specified commission if the property is sold or leased by the listing broker without assistance and a different commission if the sale or lease results through the efforts of a cooperating broker.

## Representation Defined

**Transaction Broker:** Under Florida law, it is presumed that all licensees are operating as transaction brokers unless a single agent or no brokerage relationship is established, in writing, with the customer. A transaction broker is a broker who provides limited representation to a buyer, a seller, or both in a real estate transaction, but who does not represent either party in a fiduciary capacity or as a single agent. In this relationship, the seller (or the buyer) is considered to be a **customer** of the real estate broker and not a principal. (Additional information available: Section 5 Compensation Specified on Each Listing: (NAR Policy Statement 7.23)

**Buyers Agent:** A real estate broker who becomes an agent of a buyer is deemed to be a **fiduciary**. As a fiduciary, a real estate broker is held by law to owe specific duties to his/her principal (the person who they are representing), in addition to duties or obligations set forth in a **listing agreement, buyer representation agreement, or other contract of employment**. Single agent; duties. (Additional information available: Section 5 Compensation Specified on Each Listing: (NAR Policy Statement 7.23)

**Non-Representative:** Duties of a licensee who has no brokerage relationship with a buyer or seller must be fully described and disclosed in writing to the buyer or seller. The disclosure must be made before the showing of property. (Additional information available: Section 5 Compensation Specified on Each Listing: (NAR Policy Statement 7.23)

## **Other Definitions:**

**Associate.** Any employee or salesperson of a Realtor-member who has access to and utilizes the Service through the Participant (principal).

**Public and Private ID Non-Disclosure Form.** A form which must be signed by the participants for the purpose of obtaining passwords to be used in accessing the MLS database.

**Developers/Builders** are people and companies who coordinate all of these activities, converting ideas from paper to real property. ...Developers buy land, finance real estate deals, build or have builders build projects, create, imagine, control and orchestrate the process of development from beginning to end.

**Pre-Construction** are units proposed by the developer but have not yet been built.

**Under Construction.** Residential Property or Condo including conversions/major renovations for which there is no certificate of occupancy

**New Construction** refers to site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied.

**Short Sale.** A transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies.

**Data Input Form.** A standard property data form used by participants of the Service to enter listing information into the on-line database.

**Images and Documents.** *Images and Documents* includes images, photographs, audio, sounds, video graphics, user interfaces, visual interfaces, artwork, documents, drawings, renderings, blueprints, and any other files submitted by a *Subscriber* to the *MIAMI MLS Service* as part of *Listing Content*.

**Listing Content.** References to *listings* or *Listing Content*, as used herein, means *Images and Documents*, and any other content referred to in the *MIAMI MLS Content*, that is submitted by a *Subscriber* in relation to listed properties or otherwise used by or relied upon by *Subscribers*.

**Business Day.** *Business days* are weekdays (Mondays through Fridays) except if a weekday falls on a federal holiday.

**Public Marketing.** Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

**Availability of Listing.** An Active listing shall be made available for showing to cooperative members unless it is under contract, even during contract negotiations which include counter offers.

**Offer.** The written offer to purchase signed by the prospective purchasers only. If executed by the seller(s), this will constitute a contract for sale.

**Agreement of Sale.** When used in these Rules and Regulations the term *agreement of sale* includes agreement to lease (or rent

**Under Contract.** A property shall be considered under contract on the date both seller(s) and buyer(s) accept the offer and sign the Sale and Purchase Contract.

**Sold.** A property shall be considered sold on the date of final settlement.

**Voluntary/Mandatory System.** Once a Participant voluntarily joins the Multiple Listing Service, all residential listings (up to and including four (4) units) taken within the jurisdiction of the MLS (Southeast Florida Regional system), must be placed in the MLS unless the seller(s) indicated in writing that they do not want their property published and



distributed to the other participants of the Service and said written notice is filed with the MLS. The Participant may place Commercial/Industrial properties voluntarily in the MLS.

**Geographic Market Area.** All of MIAMI-Dade, Broward, Palm Beach and Martin Counties

**Responsibility** It is the responsibility of the Participant to fully comply with these Policies and Procedures, also known as Rules and Regulations.

#### **IV. MLS ANTITRUST COMPLIANCE POLICY**

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The purpose of multiple listing is the orderly compilation and dissemination of listing information to participants so they may better serve the buying and selling public. MIAMI and their multiple listing services shall not enact or enforce any rule which restricts, limits, or interferes with participants in their relations with each other, in their broker/client/customer relationships, or in the conduct of their business in the following areas.

MIAMI and its MLS shall not:

1. Fix, control, recommend, or suggest the commissions or fees charged for real estate brokerage services.
2. Fix, control, recommend, or suggest the cooperative compensation offered by listing brokers to potential cooperating brokers.
3. Base dues, fees, or charges on commissions, listed prices, or sales prices. Initial participation fees and charges should directly relate to the costs incurred in bringing services to new participants.
4. Modify, or attempt to modify, the terms of any listing agreement; this does not prohibit administrative corrections of property information necessary to ensure accuracy or consistency in MLS compilations.
5. Refuse to include any listing in an MLS compilation solely on the basis of the listed price.
6. Prohibit or discourage participants from taking exclusive agency listings or refusing to include any listing in an MLS compilation solely on the basis that the property is listed on an exclusive agency basis.
7. Prohibit or discourage participants from taking "office exclusive" listings; verification may be required from the seller or listing broker that the listing is being withheld from the MLS at the direction of the seller.
8. Give participants or subscribers blanket authority to deal with or negotiate with buyers or sellers exclusively represented by other participants.
9. Establish, or permit establishment of, any representational or contractual relationship between an MLS and sellers, buyers, landlords, or tenants.
10. Prohibit or discourage cooperation between participants and brokers that do not participate in the MLS.
11. Prohibit or discourage participants or subscribers from participating in political activities.
12. Interfere in or restrict participants in their relationships with their affiliated licensees.

As used in this policy, "rule" includes all rules, regulations, bylaws, policies, procedures, practices, guidelines, or other governance provisions, whether mandatory or not. "Multiple listing service" and "MLS" means the MLS of MIAMI.

These policy prohibitions are subject to and limited by applicable statutes, ordinances, and governmental regulations, to agreements entered into by the MLS and MIAMI Association of REALTORS® and an agency of government, and to final decrees of courts or administrative agencies.

This policy does not prohibit MIAMI or their MLS from adopting rules or policies establishing the legitimate uses of MLS information, from prohibiting unauthorized uses of MLS information, or from establishing rules or policies necessary to prevent illegal collective action, including price-fixing and boycotts.

It is the duty and responsibility of all boards and associations of REALTORS® and MLSs owned by or controlled by boards or associations of REALTORS® to ensure that all bylaws, rules, regulations, and other governance provisions

comply with all mandatory multiple listing policies of the NATIONAL ASSOCIATION OF REALTORS®. Boards and associations of REALTORS® failing to conform to these policies will be required to show cause why their charters should not be revoked.

## V. TYPE of MLS

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MIAMI multiple listing activity is available for voluntary participation, but requires members (principals) who participate to submit all listings of designated types of property, is termed “a mandatory listing service.”

The mandatory service permits each REALTOR® to decide whether or not multiple listing is consistent with the REALTOR®’s method of doing business. If a decision is made to participate in the activity, however, then all listings covered by the rules are required to be submitted.

### Categorization of MLS Services, Information, and Products

The services, information, and products that multiple listing services provide to participants and to subscribers affiliated with participants may be categorized as core, as ancillary to the core but included in a basic package of MLS services as determined locally and provided to all MLS participants and subscribers automatically or on a discretionary basis, or as optional and available to participants and subscribers at their discretion. The following will guide MLSs in categorizing their services, information, and products.

**Core:** Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:

- active listing information
- information communicating compensation to potential cooperating brokers

Core services include the mechanisms (print or electronic or both) by which this information is communicated between participants and the MLS.

Where MLS participation is available to non-member brokers or their firms, either by law or by local decision, the information, services, and products available to such participants may be limited to those categorized as core.

**Basic:** In addition to core services, an MLS may automatically or on a discretionary basis, provide additional information service, and products substantially related to the purpose and function of MLS such as, but not limited to:

- sold and comparable information
- pending sales information
- expired listings and “off market” information
- tax records
- zoning records/information
- title/abstract information
- mortgage information
- amortization schedules
- mapping capabilities
- statistical information
- public accommodation information (e.g., schools, shopping, churches, transportation, entertainment, recreational facilities, etc.)
- MLS computer training/orientation
- access to affinity programs
- establishment, maintenance, and promotion of public-facing websites

**Optional:** An MLS may not require a participant to use, participate in, or pay for the following optional information, services, or products:

- Lock box equipment including lock boxes (manual or electronic), combination lock boxes, mechanical keys, and electronic programmers or keycards.

- Advertising or access to advertising (whether print or electronic), including classified advertising, homes-type publications, and electronic compilations, including participant, subscriber, or firm homepages or websites.

Notwithstanding the foregoing, where permitted by law\*, an MLS may treat Optional information, services or products as Basic provided that the MLS does not receive an economic benefit from the arrangement as demonstrated by satisfying both of the following conditions:

- 1) The MLS or its shareholder(s) is not the seller, lessor, or licensor of the information, service or product (i.e., the information, service, or product is sourced from an independent third party); and
- 2) The MLS does not make a profit or receive a commission or rebate based on the sale, lease, or license that exceeds the operational costs of providing the information, service, or product.

None of the foregoing precludes an association or MLS from utilizing association or MLS reserves, dues, or fees or special assessments (as otherwise provided for in the association or MLS governing documents) to acquire assets (including hardware and software) necessary to make optional information, services, or products available to participants and subscribers, provided any funds used to acquire assets or initiate services will be reimbursed out of the proceeds realized from the sale or lease of such information, services, or products. Association MLSs may make nominal administrative expenditures out of reserves, dues, or fees to initiate or maintain optional services and products.

### **Information Related to Listings of Commercial and Industrial Property**

An association or association MLS may also publish a compilation of commercial and industrial properties listed with association or MLS members so that prospective cooperating brokers will have the opportunity to contact the listing broker to learn the terms of any cooperative relationship the listing broker wishes to establish. Such a mechanism is not a multiple listing service. If an association or association MLS provides this type of informational function (commonly referred to as a commercial information exchange or CIE) to its members, it shall not publish either the total commission negotiated between the listing broker and the seller or any offers of compensation to cooperating brokers. If a relationship is established between the listing broker and a prospective cooperating broker, it is strongly recommended that the terms and conditions be established in writing prior to the time the cooperating broker commences any efforts to produce a prospective purchaser or lessee. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of associations or to others engaged in recognized fields of real estate practice or in related fields.

### **Jurisdiction of Association Multiple Listing Services**

The service area of multiple listing services owned and operated by MIAMI is not limited to the jurisdiction of the parent association of REALTORS®. Rather, associations are encouraged to establish multiple listing services that encompass natural market areas and to periodically reexamine such boundaries to ensure that they encompass the relevant market area. While associations are encouraged to work cooperatively to establish market area multiple listing services, the absence of such an agreement shall not preclude any association from establishing and maintaining a MLS whose territory exceeds that of the parent association(s) jurisdiction. MLSs may not require other offices of a firm to participate in the MLS if any office of that firm participates in that MLS. (Revised 5/02) M

## **VI. ADMINISTRATION**

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### **Operational Issues**

#### **Procedures to Be Followed by an Association of REALTORS® Upon Demand for Access to the Association's MLS without Association Membership**

In states other than California, Georgia, Alabama, and Florida, whenever an association is confronted with a request or demand by an individual for access to the association's MLS without membership in the association, member associations are advised that the association should immediately advise both the state association and the Member Policy Department of the National Association, and the recommended procedures will be provided to the member association with any other pertinent information or assistance. It is important that the state association and National Association be advised immediately if such request or demand for access to the association MLS as described is received.

## **MLS Indoctrination Requirements Relating to Individuals Entitled to Participation without Association Membership**

In processing the application of an individual entitled by law to MLS participation without REALTOR® membership, the listing information and services shall be promptly provided upon completion of the following:

1. Confirmation applicant holds a valid, current, real estate license or certificate
2. Applicant's written application and agreement to abide by the MLS rules and regulations
3. Applicant's completion of any required MLS orientation on MLS bylaws, MLS rules and regulations, other MLS related policies or procedures, and computer training related to MLS information entry and retrieval within a reasonable time not to exceed thirty (30) days, and
4. Payment of all required initial MLS fees or charges

**Waivers of MLS Fees, Dues and Charges** Recurring MLS fees, dues, and charges may be based upon the total number of real estate brokers, sales licensees, and licensed or certified real estate appraisers affiliated with or employed by an MLS participant.

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated. **M**

## **Inclusion of Exclusive Agency Listings in MLS Compilations and Databases**

Multiple listing services shall not establish or maintain any rule or policy prohibiting inclusion of exclusive agency listings that would be otherwise acceptable for inclusion in the compilation of current listing information.

**Explanation:** *This policy shall not be construed as requiring participants to accept exclusive agency listings if they determine acceptance is not in their best interest or the best interest of clients or customers. However, this policy does preclude collective agreements between participants affiliated with different firms or others to refuse to accept exclusive agency listings or to refuse to accept offers of compensation extended through the MLS or otherwise. This policy contemplates multiple listing services will clearly distinguish between exclusive right-to-sell and exclusive agency listings in multiple listing compilations and databases to prevent confusion about the rights and obligations of brokers who cooperate in the sale of such listings.*

## **Effective Date of Changes in Multiple Listing Policy**

To ensure consistent, uniform understanding of and compliance with the multiple listing policies of the National Association, all changes incorporated into the National Association's *Handbook on Multiple Listing Policy* become effective January 1 of the year following their approval by the Board of Directors of the National Association of REALTORS®. Unless specifically provided otherwise by the NAR Board of Directors, associations and multiple listing services shall have sixty (60) days from the effective date of new or amended policies to adopt them locally. (Amended 05/17)

## **Factual Data Submitted by Appraisers**

Association multiple listing services should encourage appraiser-participants to contribute factual data related to properties sold and closed which are not otherwise reported through MLS when the submission of such data is not in violation of the appraiser/client relationship.

## **Removal of Listings When Participant Refuses - Fails to Timely Report Status Changes**

Notwithstanding the limitations established in the Code of Ethics and Arbitration Manual or in other National Association policy, multiple listing services operated as committees of associations of REALTORS® or as separate, wholly-owned subsidiaries of one or more associations of REALTORS® are authorized to remove any listing from the MLS compilation of current listings where the participant has refused or failed to timely report status changes. Prior to the removal of any listing from the MLS, the participant shall be advised of the intended removal so the participant can advise his or her client(s).

## **Real Estate Transaction Standards (RETS)**

The integrity of data is a foundation to the orderly real estate market. The Real Estate Transaction Standards (RETS) provide a vendor neutral, secure approach to exchanging listing information between the broker and the MLS. In order to ensure that the goal of maintaining an orderly marketplace is maintained, and to further establish REALTOR® information as the trusted data source, MLS organizations owned and operated by associations of REALTORS® will implement the RESO Standards including: the RESO Data Dictionary by January 1, 2016; the RESO Web API by June 30, 2016 and will keep current by implementing new releases of RESO Standards within one (1) year from ratification. Compliance with this requirement can be demonstrated using the Real Estate Standards Organization (RESO) compliance Certification Process. (Amended 11/14)

## **VII. LAW**

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### **Compliance with United States Postal Codes**

MIAMI and their multiple listing services should comply with the requirements of the United States postal statutes as they relate to delivery of MLS information, and in particular Volume 39, Code of Federal Regulations, Part 320, Suspension of the Private Express Statutes; Extremely Urgent Letters, found in the Federal Register, Volume 44, Number 207, Wednesday, October 24, 1979, page 61178.

### **Registered MLS Mark of the NATIONAL ASSOCIATION OF REALTORS®**

#### **Nature of Service Mark and Necessity to Effect License Agreement to Use**

The NATIONAL ASSOCIATION OF REALTORS® has approved for use by chartered associations of REALTORS® and their members, a standard MLS mark. However, the standard service mark may not be used without a license from the NATIONAL ASSOCIATION OF REALTORS®. Such license will be granted only to those associations of REALTORS® that own and/or control the multiple listing activities and only to such associations the governing documents of which have been approved as being in compliance with multiple listing policy of the National Association. Further, the design must not be used as a lapel pin or any type of jewelry.

#### **Special Note Concerning MLS Service Mark**

The NATIONAL ASSOCIATION OF REALTORS® grants no variation of the design of the standard MLS service mark. Further, the National Association will not review and authorize any MLS insignia other than its own service mark. Further, the term REALTOR® may not, in any instance, be used in connection with any multiple listing services not owned and/or controlled by an association of REALTORS®.

#### **Use of MLS Logo by Nonmember Participants**

In any state where law requires that brokers (principals) who are not REALTORS® be admitted to the MLS of an association of REALTORS®, or in any association which has voluntarily opened its MLS to nonmember brokers and/or appraisers, the official registered MLS logo of the National Association should not be used by such a non-association member. Such use would be a misrepresentation and would violate the registration rights of the NATIONAL ASSOCIATION OF REALTORS®, the lawful owner of said collective service mark. Where such non-association member advertises that he is a member of the MLS of an association of REALTORS®, the multiple listing services may properly require that such participant of the service additionally indicate in his advertisement that he is not a member of the association of REALTORS®. (Amended 11/96)

## **Section 1. LISTING PROCEDURES**

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**Listing Procedures:** All exclusive right to sell/rent/lease and exclusive agency listings on improved residential property up to and including four (4) units which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the MLS (also known as Southeast Florida Regional), and are taken by Participants on a listing form acceptable to the Service shall be filed with the MLS within two (2) business days (excepting weekends, holidays and postal holidays) after all necessary signatures of seller(s) have been obtained.

The MLS shall accept exclusive right to sell/rent/lease and exclusive agency listing agreements, and may accept other forms of agreement which make it possible for a listing broker to offer compensation to other Participants of the MLS acting as buyer agents or both.

**Note 1:** An MLS does not regulate the type of listings its members may take. This does not mean that a MLS must accept every type of listing. The MLS shall decline to accept open listings (except where acceptance is required by law) and net listings, and it

may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

**Note 2:** The MLS shall accept exclusively listed property that is subject to the following auction types:

- Absolute: Highest Bidder
- Minimum Bid: Non Disclosed Reserve
- Non-Disclosed Reserve: Subject to Seller Approval

**The MIAMI Auction Listing Information Form** must be included in the MLS listing system as an attachment and can be found on [www.MIAMIREaltors.com/mls/auction](http://www.MIAMIREaltors.com/mls/auction).

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

The Service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted (except where required by law) because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

The exclusive right to sell/rent/lease listing is the conventional form of listing submitted to the MLS in that the seller authorizes the listing broker to cooperate with and to compensate other brokers.

The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right to sell/rent/lease listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell/rent/lease listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell/rent/lease listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell/rent/lease listings with prospect reservations.

**Note 1:** The MLS shall not require a participant to submit listings on a form other than the form the participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:

- May reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants.
- Assure that no listing form filed with the MLS establishes, directly or indirectly, any contractual relationship between the MLS and the client/customer (buyer or seller).

**Required Submission - Types of Properties:** Single Family (includes manufactured homes when sold with the land) (RE1), Townhomes and Condominiums (RE2), Residential Rental (RNT), Residential Income (RIN), Residential Land/Docks (RLD),

**Not Required Submission – Types of Properties:** Commercial/Industrial – includes Commercial For Sale or For Lease (COM), Commercial Land (CLD) and Business Opportunity (BUS).

MLS Property Input Sheets, Status Change with Definitions and Area Map Codes [www.MIAMIREaltors.com/mls](http://www.MIAMIREaltors.com/mls).

## **Section 1.01, Clear Cooperation (Policy Statement 8.0)\*\***

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 11/19) M

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

The obligations of Statement 8.0 - Clear Cooperation were specifically adopted to address concerns with residential "for sale" exclusive listing contracts required to be filed with the service. *Those property types, and other exclusive listings that require mandatory submission, can be included in the application of Statement 8.0 at local discretion.*

**Required Submission - Types of Properties:** Single Family (includes manufactured homes when sold with the land) (RE1), Townhomes and Condominiums (RE2), Residential Rental (RNT), Residential Income (RIN), Residential Land/Docks (RLD).

**Exception to Clear Cooperation are:** Commercial/Industrial properties and Developer/Builder with multiple properties (single family homes, condos, etc.)

**Section 1.1.1: Listings Subject to Rules and Regulations of the Service:** Any listing taken on a contract to be filed with the MLS is subject to the rules and regulations of the Service upon signature of the seller(s).

**Section 1.1.2: Items Not Allowed in the Multiple Listing Service:** The following are not to be published through the service, including personal property items listed below but not limited to:

- parking spaces • storage units • furniture
- cars • construction equipment • boats • airplanes
- cabanas (without folio number)
- docks (without a folio number)
- Mobile Homes (without Land)
- Timeshares (not real property)
- Rooms for Rent

**Section 1.2: Detail on Listings Filed with the Service:** A listing agreement or property data form, when filed with the MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form (includes but not limited to seller(s) signature, address, folio number of the property, compensation to cooperating broker, etc.). A property address may be withheld if the listing broker submits, within 2 business days of input, a signed exclusive listing agreement that includes the owner's written request to withhold the address from MLS.

"Syndication Opt Out" form can be found at [www.MIAMIREALTORS.com/mls](http://www.MIAMIREALTORS.com/mls)

**Section 1.2.1: Limited Service Listings:** Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

Limited Service Listings will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property. (*Adopted 5/01*)

**Section 1.2.2: Graphic Images:** Multiple Listing Services requires submission of at least one reasonable photograph of the front street view of the property or other graphic representations that accurately depict listed property except where sellers expressly direct, in writing, that photographs of their property not appear in MLS.

All photographs must be taken under the direction and control of the "Listing Broker" and copies of any photograph or image of the listed property without prior written approval of the owner of the image or photograph are prohibited. No copyright protected photos or photos containing watermarks, logos or text, must not be entered into the MLS under any circumstances.

**Note:** Photos (Images) cannot be copied from a previous agent's listing.

### Section 1.3 Office Exclusives/Exempt Listings

If the Seller refuses to permit the *listing* to be disseminated by MIAMI MLS to other *Participants*, the *Participant* may take the *listing* and such *listing* must be filed with MIAMI MLS but not disseminated to other *Participants*. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

Note 1: Section 1.3 is not required if the service does not require all (indicate type(s) of listing(s) accepted by the service) listings to be submitted by a participant to the service.

**Note 2: MLS Participants must distribute exempt listings within 1 business day once the listing is publicly marketed. See section 1.01, Clear Cooperation.**

For *Office Exclusives*, the *Subscriber* must obtain and submit to MIAMI MLS within two *business days* of the executed *listing agreement*:

- o a “Office Exclusive/Exempt to MIAMI MLS Multiple Listing Service” form (provided by MIAMI MLS) signed by the Seller, OR

In response to an address-specific inquiry from a MIAMI MLS *Subscriber*, MIAMI MLS will disclose whether or not a listing for a property with that address has been *filed* as an *Office Exclusive* with MIAMI MLS, but will not disclose any information about the listed property or the listing *Participant*. This enquiry will generate an automatic fine for “Public Marketing” resulting in a first-time violation for failing to Add to MLS of \$2500. Repeat violations subject to escalating fine amounts.

Within one business day of marketing a property to the public, the *Participant* must submit the *listing* to MIAMI MLS for cooperation with other MIAMI MLS *Participants* for residential properties. (See Section 1.01, Clear Cooperation).

**Public marketing includes, but is not limited to;** flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

**Section 1.4: Change of Status of Listing:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service within two business days after the authorized change is received by the listing broker.

Any change in listing status, including pending sale, closed sale, extension of expiration, change in terms, conditions, contingencies, withdrawal, temporarily off market, return to active status or cancelled must be reported to the MLS within two (2) business days (excepting weekends, holidays and postal holidays) after the authorized change is received by the listing broker.

Any changes to the original listing agreement affecting the offer of cooperation and compensation must be properly executed and other participants must be so notified prior to their endeavor to procure a purchaser for the property.

**Section 1.5: Withdrawal of Listing Prior to Expiration:** Listing of property may be withdrawn from the MLS by the listing broker before the expiration date of the listing agreement, provided notice is filed with the Service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

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

**Section 1.6: Contingencies Applicable to Listings:** Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants.

**Section 1.7: Listed Price Specified:** The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction. (*Amended 11/92*)



Note: US Dollars only and rounded up to the nearest dollar

Properties subject to auction shall display a listing price representative of the minimum bid, market value or assessed value, to be determined by auction type.

**Section 1.8: Listing Multiple Unit Properties:** All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the MLS.

**Section 1.9: No Control of Commission Rates or Fees Charged by Participants:** The MLS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the MLS shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

**Section 1.11 Expiration, Extension, and Renewal of Listings**

Any listing submitted to MIAMI MLS automatically expires on the date specified in the listing contract unless renewed by the listing *Participant* and notice of renewal or extension is submitted to MIAMI MLS prior to expiration. If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be submitted to MIAMI MLS. It will then be published as a new listing. Any extension or renewal of a listing must be signed by the Seller(s) and be submitted to MIAMI MLS.

**Section 1.12 Service Area:** Only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant, but cannot be required by the service. (Amended 11/17)

Listings outside of the jurisdiction but in Florida must have a valid Property Tax ID Number. Listings outside of Florida, but within the US must have valid Property Tax ID Number, City, State and Zip Code. Valid real estate license number, from the state in which the listing is located; must be entered as Co-agents Public ID (2PID). Listing(s) outside the United States must have valid legal description(s) as identified by their Country.

**Section 1.13: Listings of Suspended Participants:** When a Participant of the Service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, Association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligation except failure to pay appropriate fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the Service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from MIAMI or MLS (or both) for failure to pay appropriate dues, fees, or charges, the Association is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listing from the MLS, the suspended Participant should be advised in writing, of the intended removal so that the suspended Participant may advise his clients/customers.

**Section 1.14: Listings of Expelled Participants:** When a Participant of the Service is expelled from the MLS for failing to abide by a membership duty (i.e. violation of the Code of Ethics, Association by laws, MLS bylaws, MLS rules and regulations or other membership obligations except to pay appropriate fees or charges), all listings currently filed with the MLS shall, at the expelled Participant's options, be retained in the Service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from MIAMI or MLS (or both) for failure to pay appropriate dues, fees, or charges, the Association is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients/customers.

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

**Section 1.16: Listing Input Procedures:** Offices shall directly input listings and changes into the system without submitting supporting documentation to the Association or the Multiple Listing Service. On listing extensions, the

listing office may modify the listing provided the extension is filed with the Service within Two (2) Business Days. Any extension of a listing must be signed by the Seller(s)

It shall be the responsibility of the listing broker to retain his files, as a good business practice and for personal protection as required by Florida Statutes.

Upon request of the Multiple Listing Service, the participants shall produce documentation of the listing agreement or any changes thereto, within two business days of said request.

“Any matter not specifically addressed in these Policies and Procedures shall be governed by the policies and procedures set forth by the National Association of Realtors as from time to time amended.”

## **Section 2. SELLING PROCEDURES**

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**Showings and Negotiations:** Appointments for showings and negotiations with the seller for the purpose of listed property filed with the MLS shall be conducted through the listing broker; except under the following circumstances:

- a) The listing broker gives the cooperating broker authority to show and/or negotiate directly.
- b) After reasonable effort (defined as documented attempt to contact agent, the manager and Broker by phone, fax, text and email) the cooperating broker can contact the seller directly; however, the listing broker, at their option, may preclude such direct negotiations by cooperating brokers when a request is received.

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

**Section 2.2: Submission of Written Offers:** The listing broker must submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. If such written agreement is in place and Listing Broker refuses to present an offer, a copy of the written agreement must accompany the offer not being submitted to the seller or a rejected offer. Or unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

### **Section 2.3, Right of Cooperating Broker in Presentation of Offer**

Cooperating participants or their representatives have the right to participate in the presentation of any offer they secure to purchase or lease to the seller or lessor. They do not have the right to be present at any discussion or evaluation of the offer by the seller or lessor and the listing broker. However, if a seller or lessor gives written instructions to a listing broker that cooperating brokers may not be present when offers they procure are presented, cooperating brokers have the right to a copy of those instructions. This policy is not intended to affect listing brokers' right to control the establishment of appointments for presentation of offers.

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, as soon as practical, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. M

**Section 2.4: Right of Listing Broker in Presentation of Counter-Offer:** The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessor. However, if the purchaser or lessor gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to the purchaser's or lessee's written instructions.

**Section 2.5: Reporting Sales to the Service:** Status changes, including final closing of sales and sale prices, shall be reported to the MLS by the listing broker within two (2) Business days after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within two (2) Business days after occurrence and the listing broker shall report them to the MLS within two (2) business days after receiving notice from the cooperating broker. (Amended 11/11)

**Note 1:** *The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting*

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

**Note 2:** In Florida, the sale price of a listed property is recorded, the reporting of the sale price is required by the MLS.

**Section 2.6: Reporting Resolutions of Contingencies:** The listing broker shall report to the MLS within two (2) business days that a contingency on file with the MLS has been fulfilled or renewed, or the agreement cancelled.

**Section 2.7: Advertising of Listing Filed with the Service:** A listing shall not be advertised by any Participant other than the listing broker without the prior consent of the listing broker.

Broker may opt in to a new required field Ok to Advertise- Yes, No or with written Broker Approval  
Eff date coming soon

**Section 2.8: Reporting Cancellation of Pending Sale:** The listing broker shall report immediately to the MLS the cancellation of any pending sale, and the listing shall be reinstated immediately.

**Section 2.9: Disclosing the Existence of Offers:** Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller's approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose, if asked, whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. (Amended 11/08).

**Section 2.10: Availability of Listed Property:** Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

## REFUSAL TO SELL \_\_\_\_\_

**Section 3 Refusal to Sell:** If the seller of any listed property filed with the MLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

## VIII. Electronic Display and Print Advertising \_\_\_\_\_

### **Internet Data Exchange (IDX) Policy** Section 1 Internet Data Exchange (IDX) Policy (Policy Statement 7.58)

The IDX policy gives MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout this policy, "display" includes "delivery" of such listings. Associations of Realtors® and their multiple listing services must enable MLS participants to display aggregated MLS listing information by specified electronic means in accordance with this policy. Requests for IDX feeds/downloads must be acted on by the MLS within five (5) business days from receipt, barring extenuating circumstances related to an individual's qualification for MLS Participation, and review of the participant's and vendor's use of the IDX information consistent with the MLS rules, in which case an estimated time of approval or denial must be issued. (Amended 05/17)

For purposes of this policy "control" means participants must have the ability to add, delete, modify and update information as required by this policy. All displays of IDX listings must also be under the actual and apparent control of the participant, and must be presented to the public as being the participant's display. Actual control requires that the participant has developed the display, or caused the display to be developed for the participant pursuant to an agreement giving the participant authority to determine what listings will be displayed, and how those listings will be displayed. Apparent control requires that a reasonable consumer receiving the participant's display will understand the display is the participant's, and that the display is controlled by the participant. Factors evidencing control include, but are not limited to, clear, conspicuous, written or verbal identification of the name of the brokerage firm under which the participant operates, except as otherwise provided for in this policy (e.g., displays of minimal information). All electronic display of IDX information conducted pursuant to this policy must comply with state law and regulations, and MLS rules. Any display of IDX information must be controlled by the participant, including the ability to comply with this policy and applicable MLS rules. (Amended 05/17)

To comply with this requirement MLSs must, if requested by a participant, promptly provide basic downloading of all active listings, sold\* listing data starting from January 1, 2012, nonconfidential pending sale listing data, and other listings authorized under applicable MLS rules. MLSs may not exclude any listings from the information which can be

downloaded or displayed under IDX except those listings for which a seller has affirmatively directed that their listing or their property address not appear on the Internet or other electronic forms of display or distribution. Associations and MLSs can also offer alternative display options including framing of board, MLS, or other publicly-accessible sites displaying participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to participants' servers on a persistent or transient basis, at the discretion of the MLS. The MLS's IDX download must be refreshed to accurately reflect all updates and status changes no less frequently than every twelve (12) hours. (Amended 11/15)

\*Note: If "sold" information is not publicly accessible, sold listings can be removed from the MLSs' IDX feeds/downloads. "Publicly accessible" sold information as used in IDX policy and rules, means data that is available electronically or in hard copy to the public from city, county, state and other government records. MLSs must provide for its Participants' IDX displays publicly accessible sold information maintained by the MLS starting January 1, 2012. (Amended 05/17)

MLSs that allow persistent downloading of the MLS database by participants for display or distribution on the Internet or by other electronic means may require that participants' websites (1) utilize appropriate security protection, such as firewalls, provided that any security obligations imposed on participants may not be greater than those employed concurrently by the MLS, and/or (2) maintain an audit trail of consumer activity on participants' websites and make that information available to the MLS if the MLS has reason to believe that a participant's IDX website has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. This policy does not require associations or MLSs to establish publicly accessible sites displaying participants' listings. (Amended 05/12)

Unless state law requires prior written consent from listing brokers, listing brokers' consent for IDX display may be presumed unless a listing broker affirmatively notifies the MLS that the listing broker refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit IDX display of that participant's listings, then that participant may not display the aggregated MLS data of other participants on an IDX site.

Alternatively, MLSs may require that participants' consent for IDX display of their listings by other participants be affirmatively established in writing. Even where participants have given blanket authority for other participants' IDX display of their listings, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. (Amended 05/12)

Access to MLS databases, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MLS rules. (Amended 11/09)

Participants' Internet websites and other authorized display mechanisms may also provide other features, information, or services in addition to IDX information (including Virtual Office Website ["VOW"] functions) which are not subject to this policy. (Amended 05/12)

### **Policies Applicable to Participants' IDX Sites**

1. Participants must notify the MLS of their intention to establish an IDX site and make their IDX site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.
2. Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.
3. Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.
4. Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, or exclusive agency), or the level of service provided by the listing firm. Selection of listings to be displayed on an IDX site must be independently made by each participant.
5. Participants must refresh all MLS downloads and refresh all MLS data at least once every twelve (12) hours.

6. Except as provided elsewhere in this policy or elsewhere in an MLS's rules and regulations, an IDX site or participant operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

7. When displaying listing content, a participant's or user's IDX display must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. This policy acknowledges that certain required disclosures may not be possible in displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of 200 characters or less) or for audio delivery of listing content. Minimal displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from the disclosure requirements only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application.

8. With respect to any participant's IDX display that

a) allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or

b) displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued with respect to the seller's listing at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued by all participants. Except for the foregoing and subject to paragraph 9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying customers that a particular feature has been disabled at the request of the seller. (Amended 05/12)

9. Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. The participant shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for that property explaining why the data or information is false. However, the participant shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 05/12)

10. An MLS participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

11. Participants shall not modify or manipulate information relating to other participants' listings. MLS participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. (Adopted 05/15) **M**

12. An MLS participant's IDX display must identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. (Amended 11/17) **M**

13. Require that information displayed not be modified. MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the other data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

14. Require that any display of other participants' listings indicate the source of the information being displayed

15. Require that other brokers' listings obtained from other sources, e.g., from other MLSs, from non-participating brokers, etc., display the source from which each such listing was obtained
  16. Require participants to indicate on their websites that the information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing
  17. Establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to an inquiry
  18. Require a notice on all MLS data displayed indicating that the data is deemed reliable but is not guaranteed accurate by the MLS. Participants' IDX sites may also include other disclaimers necessary to protect the participant and/or the MLS from liability
  19. Where MIAMI MLS participatory rights are available to non-member brokers the right to display listing information pursuant to IDX is limited to their type of membership with the MIAMI.
  20. MIAMI MLS limits the right to display listing information pursuant to IDX to MLS participants engaged in real estate brokerage. This requirement can be met by maintaining an office or Internet presence from which participants are available to represent real estate sellers or buyers (or both).
  21. MIAMI MLS allows non-principal brokers and sales licensees affiliated with MLS participants to use information available through IDX to populate their own websites.
- Even if use of information through IDX is provided to non-principal brokers and sales licensees affiliated with MLS participants, such use is subject to participants' consent and control and the requirements of state law and/or regulation.
22. MIAMI MLS cannot prohibit participants from downloading and displaying or framing other brokers' listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources.
  23. MIAMI MLS charges for adding to or enhancing their downloading capacity to participants who will download listing information. Assessment of such costs should reasonably relate to the actual costs incurred by the MLS.

#### **A. Electronic Display of Other Participants' Listings**

Participants are not required to consent to display or distribution of their listings through non-IDX and non-VOW channels as a condition of participation in MLS or as a condition of participation in IDX. Electronic display and distribution pursuant to this policy contemplates, but is not limited to, Short Message Services ("SMS")/texting technologies, and interactive "social media." All electronic displays and/or distribution of other participants' listings conducted pursuant to this policy must comply with state law and regulations and applicable rules.

Displays addressed by this policy are subject to technological limitations on disabling/discontinuing third-party comments/reviews, disabling/discontinuing automated displays of market value, "refreshing" displays on a periodic basis, and possibly other issues which should be taken into consideration when developing rules and policies governing such displays. (*Adopted 11/12*)

#### **B. Transmittal of Participants' Listings to Aggregators**

MLSs are not required to transmit participants' listings to third-party aggregators or to operate a public website displaying listing information. MIAMI MLS transmits participants' listings to third-party aggregators and/or operates a public website displaying listing information, all exclusive listings, regardless of type, are included in the data feed (unless a participant withholds consent for such transmission), except that MIAMI MLS will exclude from such data feed any listing where both of the following conditions are present:

- a. a graphic display of the property's specific location will be displayed to the public; and
- b. the Seller displays on the property a "for sale by owner" sign or other sign or notice indicating that the seller is soliciting direct contact from buyers.

### C. Use of MLS Information in Advertising - Other Public Representations

Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable reports may be used by MLS participants as the basis for aggregated demonstrations of market share or for comparisons of firms in public, mass-media advertisements, and other public representations.

Any print or non-print form of advertising or other public representation based in whole or in part on information supplied by the MLS must clearly disclose the source of the information and the period of time over which such claims are based.

## PROHIBITIONS

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**Section 4 Information for Participants Only:** Any listing filed with the Service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.

**Section 4.1: “For Sale” Signs:** Only the “For Sale” sign of the listing broker may be placed on a property.

**Section 4.2: “Sold Signs”:** Prior to closing, only the “Sold” sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

**Section 4.3: Solicitation of Listing Filed with the Service:** Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTOR® Code of Ethics, its Standards of Practice and its Case Interpretations.

**Note:** *This Section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This Section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited prior to expiration of the listing by brokers and salespersons. This Section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.*

*Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.*

*Subscribers shall not use property listing content from a prior listing of a property without the express consent of the owner of the proprietary rights in the Listing Content.*

*This section is also intended to encourage brokers to participate in the service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.*

*This section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.*

**Section 4.4 Use of the Terms MLS and Multiple Listing Service:** No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

## DIVISION OF COMMISSION

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### Section 5 Compensation Specified on Each Listing: (NAR Policy Statement 7.23)

The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing.

Miami MLS provides three fields for the Listing Brokerage to offer Compensation to the Selling side (one is required).

- **Compensation Transaction Broker** – A transaction broker is a broker who provides limited representation to a buyer, a seller, or both in a real estate transaction, but who does not represent either party in a fiduciary capacity or as a single agent. In this relationship, the seller (or the buyer) is considered to be a customer of the real estate broker and not a principal. In a transaction broker relationship, the buyer or seller (customer) is not responsible for the acts of a licensee. Under Florida law, it is presumed that all licensees are operating as transaction brokers unless a single agent or no brokerage relationship is established, in writing, with the customer.
- **Compensation Buyers Agent** – A real estate broker who becomes an agent of a buyer is deemed to be a fiduciary. Other examples of fiduciaries are trustees, executors, and guardians. As a fiduciary, a real estate broker is held by law to owe specific duties to his/her principal (the person who they are representing), in addition to duties or obligations set forth in a listing agreement, buyer representation agreement, or other contract of employment. Single agent; duties.
- **Compensation Non-Rep** – Duties of a licensee who has no brokerage relationship with a buyer or seller must be fully described and disclosed in writing to the buyer or seller. The disclosure must be made before the showing of property. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of a licensee that has no brokerage relationship with a buyer or seller, except that the first sentence of the information identified in paragraph (c) must be printed in uppercase bold type.

In filing property with the MLS, participants make blanket unilateral offers of compensation to the other MLS participants and shall therefore specify on each listing filed with the service the compensation being offered by the listing broker to the other MLS participants. This is necessary because cooperating participants have the right to know what their compensation will be prior to commencing their efforts to sell.\* *(Revised 11/04)*

The listing broker retains the right to determine the amount of compensation offered to buyer agents, or to brokers acting in other agency or non-agency capacities, which may be the same or different. *(Revised 11/96)*

This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on his listings as published by the MLS, provided the listing broker informs the other broker in writing in advance of their submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. *(Amended 05/10)*

While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional (except where MLS rules create specific exceptions as specified elsewhere in this policy statement), a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. *(Amended 11/98)*

The MLS shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The MLS shall not disclose in any way the total commission negotiated between the seller and the listing broker.



**Note 1:** *The MLS shall not publish listings that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount, nor shall they include general invitations by listing brokers to other participants to discuss terms and conditions of possible cooperative relationships. (Amended 11/96)*

**Note 2:** *The compensation specified on listings filed with the MLS by the participants of the service shall be expressed as a percentage of the gross sales price or as a definite dollar amount. The essential and appropriate requirement by a MLS is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of their submitting an offer to purchase. (Amended 5/10)*

**Note 3:** *The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised. (Amended 4/92)*

**Note 4:** *MIAMI MLS, has defined rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Amended 5/10)*

**Note 5:** *Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. (Adopted 11/05)*

**Note 6:** *Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in MLS rules, short sales are defined as a transaction where title transfers, where the sales price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. MIAMI requires participants to disclose short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they must communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants. MIAMI participants are required to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants MIAMI MLS requires listing participants to disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within two (2) business days Of receipt of notification from the lender. All confidential disclosures and confidential information related to short sales, must be communicated through Broker Remarks or confidential "remarks" available only to participants and subscribers. (Amended 5/10)*

**Section 5.0.1 Disclosing Potential Short Sales:** Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when known by the listing participants or their representative. (Amended 5/09)

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

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

**Section 5.3: Dual or Variable Rate Commission Arrangements:** The existence of a dual or variable rate commission arrangement (i.e. one which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the

efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller /landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

## **SERVICE CHARGES**

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**Section 6 Service Fees and Charges:** As approved by the BOGs.

## **COMPLIANCE WITH RULES**

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### **Section 7, Compliance with Rules – Authority to Impose Discipline**

By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

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

**Note:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14)

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

## **MEETINGS**

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**Section 8 Meetings of Official MLS Business:** The BOG may appoint special Task Forces. All recommendations and decisions of the Task Force are subject to the approval of the BOG.

## **ENFORCEMENT OF RULES AND REGULATIONS**

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**Section 9:** The MLS Review Panel shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the BOG. **M**

### **Section 9.1 Violations of Rules and Regulations**

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the MLS Review Panel, and if a violation is determined, the Review Panel may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the directors' decision.

If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the Board of Governors within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the professional standards committee of the association of REALTORS® for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Residential board of Governors of the association of REALTORS®. **M**

### **Section 9.2 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the Board of Governors of the service to the association for appropriate action in accordance with the professional standards procedures established in the association's bylaws. (Amended 11/88)

### **Section 9.3 Complaints of Unauthorized Use of Listing Content**

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the MLS will send the notice to the participant who is accused of unauthorized use. Within two (2) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the MLS that the use is authorized. Any proof submitted will be considered by Miami MLS), and a decision of whether it establishes authority to use the listing content will be made within ten business days.

If Miami MLS determines that the use of the content was unauthorized, the MLS Review Panel may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after two (2) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. **M**

### **Section 9.4 MLS Rules Violations**

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules. **M**

**Note:** Adoption of Sections 9.3 and 9.4 are not required if the MLS has adopted alternative procedures to address alleged misuse of listing content that includes notice to the alleged infringer.

**Consideration of Alleged Violations:** The BOG shall annually select from a list of prequalified MLS Participants to serve on the MLS Review Panel. This panel will give consideration to all written complaints having to do with alleged violations of the MLS Rules and Regulations. Errors or Possible MLS Rule Violations can be reported (while on the Full Report View) using the “Report data error” option on the left side menu.

For the most current list of MLS violations subject to progressive fines go to [www.miamire.com/mls](http://www.miamire.com/mls).

**Section 9.4.1: Compliance with Rules - Authority to Impose Discipline:** By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and other MLS governance provisions. The MLS may, through established administrative procedures and through the findings of the MLS Review Panel established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed must consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- f. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- g. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Adopted 11/07)

For the most current list of MLS violations subject to progressive fines go to [www.MIAMIREaltors.com/mls](http://www.MIAMIREaltors.com/mls)

**Section 9.5: MLS Disciplinary Guidelines:** Associations of REALTORS® and their multiple listing services have the responsibility of fostering awareness, understanding, and appreciation for the duties and responsibilities of MLS participants and subscribers, and of receiving and resolving complaints alleging violations of the rules and regulations. The REALTOR® organization is firmly committed to vigorous, fair, and uniform enforcement. Enforcement achieves a number of goals. Where participants or subscribers are wrongly or mistakenly charged with violations, the hearing process provides personal and professional vindication. Where violations are determined, enforcement process educates participants and subscribers about their duties and obligations, and serves as a meaningful deterrent of future violations.

Allegations of conduct inconsistent with the rules are often viewed by respondents as threats to their professional and personal reputations. This can result not only in their mounting vigorous defenses but also, at times, to threats of legal challenge should a violation be determined and discipline imposed. Given that MLS participation can have significant economic value, associations and their MLSs need to strictly adhere to their established procedures when considering potential violations. This caution ensures that the rights of the parties will be observed, and legal exposure of associations and their MLSs will be minimized.

At the same time, well-founded caution should not be confused with reservation, reluctance, or hesitancy. Rules become aspirations at best, and potentially meaningless, if not enforced with vigor and determination.

Fundamental to fair and consistent enforcement is reasonable and judicious use of discipline, as both an educational device and as punishment. Associations and their MLSs have a wide variety of sanctions available to them that may be imposed for violations. These range from simple letters of warning to termination of MLS rights and privileges. Between these extremes are mandatory attendance at remedial education sessions, financial penalties, probation, and suspension.

The National Association does not recommend specific penalties for certain offenses or for violations of particular rules. This is in deference to the wisdom and autonomy of the hearing panel privy to the details of complaints coming before them; in recognition of the fact that no two complaints are identical; and in view of the facts that the details of each hearing, including the experience of respondents, their history of prior violations, and mitigating or extenuating circumstances, may all come into play in determining an appropriate penalty. At the same time, there are key points to be considered with respect to imposition of discipline.

- Discipline that can be imposed is strictly limited to those forms authorized in the National Association of REALTORS® Code of Ethics and Arbitration Manual and to any additional form authorized by the National Association’s board of directors.

- Discipline should be commensurate with the offense. Unintentional or inadvertent violations should result in penalties designed to educate respondents about the conduct expected of them. Only authorized forms of discipline may be utilized.
- Discipline should be progressive. The disciplinary emphasis on violations by new members or by long-standing members with no history of prior violations should be primarily educational. Repeated or subsequent violations should be addressed with more serious forms of discipline, including substantial fines, suspension, and termination of MLS rights and privileges.
- A gray area can exist with respect to “first time violations” that are clearly not the result of ignorance or mistake but rather demonstrate flagrant disregard for the rules. While the educational aspect of enforcement cannot be disregarded, the fact that the rules exist to protect clients and customers, the public, and to ensure effective, efficient functioning of the MLS, must also be considered in determining commensurate discipline.
- Mitigating or extenuating circumstances should be considered in determining appropriate discipline. The fact that a respondent recognizes or acknowledges inappropriate conduct or took steps to remediate or minimize harm or injury, should be considered in determining appropriate discipline.
- Respondent’s records of earlier violations or, conversely, the fact that they have not violated the rules in the past, can be considered in determining appropriate discipline. Hearing panels cannot consider past violations in deciding whether the conduct currently complained of violates the rules.

Crafting appropriate, meaningful discipline can challenge panels that have concluded the rules have been violated. This discussion is offered as guidance, rather than as a hard and fast template, to assist panels in meeting their responsibility in ensuring the rules’ viability and vitality through vigorous and evenhanded enforcement.

### **Progressive Discipline**

Discipline imposed for violation of the rules should be progressive. The severity of discipline should increase incrementally for subsequent violations. The disciplinary emphasis where first time violations occur should be primarily educational. Repeated or subsequent violations should result in more serious forms of discipline being utilized, including substantial fines, suspension, and termination of MLS rights and privileges. At the same time, a gray area can exist where a first-time violation is not attributable to ignorance or oversight, but rather to blatant disregard for the rules. While the educational emphasis of enforcement cannot be disregarded, the fact the rules exist to protect clients and customers, the public and to ensure the effective, efficient functioning of the MLS must be carefully considered in determining appropriate discipline.

For the most current list of MLS violations subject to progressive fines go to [www.MIAMIREaltors.com/mls](http://www.MIAMIREaltors.com/mls).

### **Outline for Appeal**

All Violations and Fines imposed may be appealed by submitting a completed “MLS Appeal Form” included with the Fine email. Appeals must be submitted within 2 business days of receiving the fine for consideration by the next scheduled MLS Review Panel.

Factors the MLS Review Panel will consider in determining appropriate discipline include, but are not necessarily limited to:

- The nature of the violation
- Harm caused by the violation. Was the violation a minor mistake causing little or no harm or, alternatively, was a client, customer, member of the public, or another participant harmed?
- Was the violation inadvertent or unintentional or, conversely, was it the result of knowing disregard for the obligations of MLS participants and subscribers?
- How much real estate experience did the violator have? Did he, or should he, have known better?
- Has the violator been found in violation of the rules previously? How often? How recently? Is the current violation related or similar to earlier violations?
- Are there mitigating or extenuating circumstances that should be considered in determining appropriate discipline?
- Did the violator acknowledge the violation? Did the violator express remorse or contrition?
- Are there other factors that ought to be considered?

The Participant or Subscriber may appeal the outcome to the Board of Governors go to [www.MIAMIREaltors.com/mls](http://www.MIAMIREaltors.com/mls)

### **Publishing MLS Violations and Fines**

MIAMI MLS may publish a list of MLS violations and fines imposed on a quarterly and/or yearly basis. This list is for information purposes and will not contain Participant and/or Subscriber names.

## CONFIDENTIALITY OF MLS INFORMATION ---

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

**Section 10.1: MLS Not Responsible for Accuracy of Information:** The information published and disseminated by the MLS is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The MLS does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the MLS harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

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

## OWNERSHIP OF MLS COMPILATION\*AND COPYRIGHT ---

The listing broker owns the listing agreement. Prior to submitting a listing to the MLS, the listing broker should own, or have the authority to license all listing content (e.g., photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property) to be published in the MLS compilation of listing information.

Use of listings and listing information by MLSs for purposes other than the defined purposes of MLS requires participants' consent. Such consent cannot be required as a condition of obtaining or maintaining MLS participatory rights. MLSs may presume such consent provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of MLS, and given the opportunity to affirmatively withhold consent for that use. Participants cannot be required to transfer ownership rights (including intellectual property rights) in their listings or listing content to MLS to obtain or maintain participatory rights except that MLSs may require participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. MLSs may also require participants to warrant that they have the rights in submitted information necessary to grant these rights to MLS. *(Adopted 5/05, Amended 5/06)*

### Section 11, Ownership of MLS Compilation and Copyright

By the act of submission of any property listing content to the MLS, the participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation, and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property.

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content

**Section 11.1:** All right, title, and interest in each copy of every MLS compilation created and copyrighted by MIAMI and in the copyrights therein, shall at all times remain vested in MIAMI

**Section 11.2:** Each Participant shall be entitled to lease from MIAMI a number of copies of each MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of compilation. The Participant shall pay for each such copy, or the



rental fee set by the Association. \*\* Participants shall acquire by such lease only the right to use the MLS compilation in accordance with these rules.

**Note:** *\*The term “MLS compilation” as used in Section 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including but not limited to, bound book, loose-leaf binder, computer database, card file, or any other format whatever.*

*\*\*This section should not be construed to require the Participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the Association.*

**Note:** The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as participants and subscribers hosting an IDX display.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs, participants and subscribers comply with the DMCA safe harbor provisions discussed herein.

**To qualify for this safe harbor**, the OSP must:

- (1) Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, participant, subscriber, or other individual or entity.
- (2) Develop and post a DMCA-compliant website policy that addresses repeat offenders.
- (3) Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
- (4) Have no actual knowledge of any complained-of infringing activity.
- (5) Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
- (6) Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP’s copyright infringement liability. For more information see 17 U.S.C. §512.

## **USE OF COPYRIGHTED MLS COMPILATION**

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**Section 12: Distribution** Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased or sold to them by MIAMI and shall not distribute such copies to persons other than subscribers who are affiliated with such Participants as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by the MLS is strictly limited to the activities authorized under a Participant’s licensure(s) or certification, and unauthorized

users are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed or published by the MLS where access to such information is prohibited by law.

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

**Section 12.2: Reproduction** Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Amended 05/14)

## **USE OF MLS INFORMATION**

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**Section 13 Limitations on Use of MLS Information** Use of information from MLS compilation of current listing information, from the Association's "Statistical Report, or from any "Sold" or "Comparable" report of the Association or MLS for public mass-media advertising by an MLS Participant or in other public representations, may not be prohibited. However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice: "**Based on information from the Southeast Florida MLS (SEFMLS) or from the Associations participating in the SEFMLS for the period (date) through (date).**" Sold or Comparable data are treated as services of the Association and not of the MLS. Therefore, sold or comparable data are not made available to brokers, who are MLS Participants, but not otherwise members of the Association.

## **CHANGES IN RULES AND REGULATIONS**

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**Section 14 Changes in Rules and Regulations** Amendments to the rules and regulations of the MLS shall be governed and subject to approval by the BOG.

## **ARBITRATION OF DISPUTES**

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**Section 15 Arbitration of Disputes:** By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS Participants in different firms arising out of their relationships as MLS Participants subject to the following qualifications:

(a) If all disputants are members of the same Association of Realtors or have their principal place of business within the same Association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Association of REALTOR®.

(b) If the disputants are members of different Associations of REALTOR® or if their principal place of business is located within the territorial jurisdiction of different Associations of REALTOR®, they remain obligated to arbitrate in accordance with the procedures of the Florida Association of REALTOR®.

**Interboard Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing interboard agreement, or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Association of REALTORS®.

**Awards:** The obligation to arbitrate includes the duty to either 1) pay an award to the party(ies) named in the award or 2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or deposit the funds with the association within ten (10) days may be considered a violation of the MLS rules and may subject the participant to disciplinary action at the sole discretion of the MLS.8

## **STANDARDS OF CONDUCT FOR MLS PARTICIPANTS** \_\_\_\_\_

### **Section 16 Standards of Conduct for MLS Participants:**

**Section 16.1:** MLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS Participants have with clients.

**Section 16.2:** Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord.

**Section 16.3:** MLS Participants acting as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker.

**Section 16.4:** MLS Participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS Participant, refuses to disclose the expiration date and nature of such listing, (i.e. an exclusive right to sell/rent/lease, exclusive agency, open listing or other form of contractual agreement between the listing broker and the client/customer, the MLS Participant may contact the owner to secure such information and may discuss the terms upon which the MLS Participant might take a future listing, or alternatively, may take a listing to become effective upon expiration of any exclusive listing.

**Section 16.5:** The Participants shall not solicit buyer/tenant agreements from buyer/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS Participant might enter into a future buyer/tenant agreement, or alternatively may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

**Section 16.6:** MLS Participants shall not use information obtained from listing brokers through offers to cooperate made through the multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers, or to create buyer/tenant relationships with listing brokers' clients/customers, unless such use is authorized by listing brokers.

**Section 16.7:** The fact that an agreement has been entered into with an MLS Participant shall not preclude or inhibit any other MLS Participant from entering into a similar agreement after the expiration of the prior agreement.

**Section 16.8:** The fact that a prospect has retained an MLS Participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS Participants from seeking such prospect's future business.

**Section 16.9:** MLS Participants are free to enter contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.

**Section 16.10:** When MLS Participants are contacted by the client/customer of another MLS Participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

**Section 16.11:** In cooperative transactions, MLS Participants shall compensate cooperating MLS Participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS Participants without the prior express knowledge and consent of the cooperating broker.

**Section 16.12:** MLS Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS Participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club or organization, or other classification or group is deemed "general" for purposes of this rule.

**The following types of solicitations are prohibited:**

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another MLS Participant; and

mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information intended to foster cooperation with MLS Participants.

**Section 16.13:** MLS Participants, prior to entering into a representative agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service for the same time period.

**Section 16.14:** MLS Participants, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease.

**Section 16.15:** On unlisted property, the MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement.

MLS Participants shall make any request for anticipated compensation from the seller/landlord at first contact.

**Section 16.16:** MLS Participants, acting as representatives or brokers of sellers/landlords or as listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement.

**Section 16.17:** MLS Participants are not precluded from contacting the client/customer of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type or real estate service unrelated to the type of service currently being provided (e.g. property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a MLS or any other offer of cooperation may not be used to target clients of other MLS Participants to whom such offers to provide services may be made.

**Section 16.18:** MLS Participants, acting as non-agency or buyer/tenant representatives or brokers, shall not use the term of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to non-agents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation.

**Section 16.19:** All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS Participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects.

**Section 16.20:** Participants, users, and subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients/customers of their current firm to cancel exclusive contractual agreements between the client/customer and that firm. This does not preclude participants from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98, Amended 1/10)*

**Section 16.21:** These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS Participants involving commission, fees, compensation, or other forms of payment or expenses.

**Section 16.22:** MLS participants shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. *(Amended 01/12)*

**Section 16.23** MIAMI participants shall present a true picture in their advertising and representations to the public, including Internet content posted and the URLs and domain names they use, and participants may not:

- a. Engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. Manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c. Deceptively use metatags, keywords, or other devices/methods to direct, drive, or divert internet traffic;
- d. Present content developed by others without attribution or without permission; or
- e. Otherwise mislead consumers. *(adopted 1/13)*

#### **Standard 16.24 of the Standards of Conduct for MLS Participants**

MLS participants shall present a true picture in their advertising and representations to the public, including Internet content, images, and the URLs and domain names they use, and participants may not:

- a. engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- d. present content developed by others without either attribution or without permission; or
- e. otherwise misleading consumers, including use of misleading images. *(Amended 1/18)*

**Section 16.25** The services which MLS participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Adopted 11/09)*

## ORIENTATION

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**Section 17 Orientation:** Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. (Amended 11/04)

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (Amended 11/17)

## IDX

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### Section 18 IDX Defined

IDX affords MLS participants the ability to authorize limited electronic display and delivery of their listings by other participants via the following authorized mediums under the participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listings. (Amended 5/17)

#### Section 18.1 Internet Data Exchange (IDX) Policy (Policy Statement 7.58)

Participants' consent for display of their listings by other participants pursuant to these rules and regulations must be established in writing. If a participant withholds consent on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants.\* (Amended 05/17)

Associations of REALTORS® and their multiple listing services must enable MLS participants to display aggregated MLS listing information by specified electronic means in accordance with this policy. Requests for IDX feeds/downloads must be acted on by the MLS within five (5) business days from receipt, barring extenuating circumstances related to an individual's qualification for MLS participation, and review of the participant's and vendor's use of the IDX information consistent with the MLS rules, in which case an estimated time of approval or denial must be issued. Electronic display subject to this policy means displays on participants' public websites and displays using applications for mobile devices that participants control. For purposes of this policy "control" means participants must have the ability to add, delete, modify and update information as required by this policy. All displays of IDX listings must also be under the actual and apparent control of the participant, and must be presented to the public as being the participant's display. Actual control requires that the participant has developed the display, or caused the display to be developed for the participant pursuant to an agreement giving the participant authority to determine what listings will be displayed, and how those listings will be displayed. Apparent control requires that a reasonable consumer viewing the participant's display will understand the display is the participant's, and that the display is controlled by the participant. Factors evidencing control include, but are not limited to, clear identification of the name of the brokerage firm under which the participant operates in a readily visible color and typeface, except as otherwise provided for in this policy (e.g., displays of minimal information). All electronic display of IDX information conducted pursuant to this policy must comply with state law and regulations, and MLS rules. Any display of IDX information must be controlled by the participant, including the ability to comply with this policy and applicable MLS rules. (Amended 05/12)

To comply with this requirement MLSs must, if requested by a participant, promptly provide basic downloading of all active listings, a minimum of three (3) years sold \* listing data non-confidential pending sale listing data, and other listings authorized under applicable MLS rules and may not exclude any listings from the information which can be downloaded or displayed under IDX except those listings for which a participant has withheld consent, or listings for which the seller has prohibited Internet display. Associations and MLSs can also offer alternative display options including framing of board, MLS, or other publicly-accessible sites displaying participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to participants' servers on a persistent or transient basis, at the discretion of the MLS. The MLS's IDX download must be refreshed to accurately reflect all updates and status changes no less frequently than every twelve (12)

hours. Data transmitted must exclude the listing or property address, respectively, of any seller who affirmatively directs that the listing or the property address not appear on the Internet or other electronic forms of display or distribution. (Amended 11/14)

\*Note: If “sold” information is not publicly accessible, sold listings can be removed from the MLSs’ IDX feeds/downloads. “Publicly accessible” sold information as used in IDX policy and rules, means data that is available electronically or in hard copy to the public from city, county, state and other government records. MLSs must provide for its participants’ IDX displays publicly accessible sold information maintained by the MLS for at least the last three (3) years.

MLSs that allow persistent downloading of the MLS database by participants for display or distribution on the Internet or by other electronic means may require that participants’ websites (1) utilize appropriate security protection, such as firewalls, provided that any security obligations imposed on participants may not be greater than those employed concurrently by the MLS, and/or (2) maintain an audit trail of consumer activity on participants’ websites and make that information available to the MLS if the MLS has reason to believe that a participant’s IDX website has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. This policy does not require associations or MLSs to establish publicly accessible sites displaying participants’ listings. (Amended 05/12)

Unless state law requires prior written consent from listing brokers, listing brokers’ consent for IDX display may be presumed unless a listing broker affirmatively notifies the MLS that the listing broker refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit IDX display of that participant’s listings, then that participant may not display the aggregated MLS data of other participants on an IDX site.

Alternatively, MLSs may require that participants’ consent for IDX display of their listings by other participants be affirmatively established in writing. Even where participants have given blanket authority for other participants’ IDX display of their listings, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. (Amended 05/12)

Access to MLS databases, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MLS rules. (Amended 11/09)

Participants’ Internet websites and other authorized display mechanisms may also provide other features, information, or services in addition to IDX information (including Virtual Office Website [“VOW”] functions) which are not subject to this policy. (Amended 05/12)

\* Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. (Amended 05/12)

## **Section 18.2 Policies Applicable to Participants’ IDX Websites and Displays**

1. Participants must notify the MLS of their intention to display IDX information and give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. (Amended 05/12)
2. MLS participants may not use IDX-provided listings for any purpose other than IDX display. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 05/12)
3. Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly accessible websites or VOWs) shall not be accessible via IDX display. (Amended 05/12)  
Requires completed Listing Syndication Seller-Opt Out form found on [www.MIAMIREALTORS.com/mls](http://www.MIAMIREALTORS.com/mls)
4. Participants may select the IDX listings they choose to display based only on objective criteria including, but not limited to, factors such as geography or location (“uptown”, “downtown”, etc.), list price, type of property (e.g., condominiums, cooperatives, single family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service provided by the listing firm. Selection of IDX listings to be displayed must be independently made by each participant. (Amended 05/12)

5. Participants must refresh all MLS downloads and displays automatically fed by those downloads not less frequently than every twelve (12) hours. (Amended 11/14)
6. Except as provided elsewhere in this policy or elsewhere in an MLS's rules and regulations, an IDX display or participant engaging in IDX display may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 05/12)
7. When displaying listing content, a participant's or user's IDX display must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. This policy acknowledges that certain required disclosures may not be possible in displays of minimal information (e.g., "thumbnails," text messages, "tweets," etc., of 200 characters or less). Such displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. (Amended 05/12)
8. With respect to any participant's IDX display that:
  - a. allows third parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, either or both of those features shall be disabled or discontinued with respect to the seller's listing at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued by all participants. Except for the foregoing and subject to paragraph 9, a participant's IDX display may communicate the participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying customers that a particular feature has been disabled at the request of the seller. (Amended 05/12)
9. Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. The participant shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for that property explaining why the data or information is false. However, the participant shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 05/12)
10. An MLS Participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)
11. Participants shall not modify or manipulate information relating to other participants' listings. MLS participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields.

#### **Section 18.2.12 of the Internet Data Exchange (IDX) Rules**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.\* (Amended 05/17)

\* Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the devices application. (Amended 5/17)

## **Internet Data Exchange (IDX) Rules**

The following guidelines are recommended but not required to conform to National Association policy. MLSs may:

1. Prohibit display of expired, withdrawn, pending, or sold listings\* (Amended 11/14)  
  
\*Note: If “sold” information is publicly accessible, display of “sold” listings may not be prohibited. (Adopted 11/14)
2. Prohibit display of confidential information fields intended for cooperating brokers rather than consumers including compensation offered to other MLS participants, showing instructions, property security information, etc.
3. Prohibit display of the type of listing agreement, e.g., exclusive right to sell/rent/lease, exclusive agency, etc.
4. Prohibit display of seller’s(s’) and occupant’s(s’) name(s), phone number(s), and e-mail address(es)
5. Require that any listing displayed identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data (Amended 11/09)
6. Require that the identity of listing agents be displayed
7. Require that any display of other participants’ listings indicate the source of the information being displayed.
8. Require that any display of other participants’ listings indicate the source of the information being displayed
9. Require that other brokers’ listings obtained from other sources, e.g., from other MLSs, from non-participating brokers, etc., display the source from which each such listing was obtained
10. Require participants to indicate on their websites and in any other IDX display that the information being provided is for consumers’ personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing. (Amended 05/12)
11. Establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to an inquiry. Such number shall be determined by the MLS, but in no instance may the limit be fewer than five hundred (500) listings or five percent (50%) of the listings available for IDX display, whichever is less. (Amended 05/17)
12. Limit the right to display other participants’ listings to a participant’s office(s) holding participatory rights in the same MLS.
13. Require a notice on all MLS data displayed indicating that the data is deemed reliable but is not guaranteed accurate by the MLS. Participants’ IDX sites and displays may also include other disclaimers necessary to protect the participant and/or the MLS from liability. (Amended 05/12)

This policy acknowledges that the disclosures required under Subsections 5, 6, 8, 9, 10 and 13 (above) may not be possible in displays of minimal information (e.g., “thumbnails,” text messages, “tweets,” etc., of 200 characters or less). Such displays are exempt from the disclosure requirements established in this policy but only when linked directly to a display that includes all required disclosures. (Adopted 05/12)

### **Additional Local Issues/Options**

1. Where MLS participatory rights are available to non-member brokers or firms as a matter of law or local determination, the right to IDX display of listing information may be limited, as a matter of local option, to participants who are REALTORS®. (Amended 05/12)
2. MLSs may, but are not required to, limit the right to display listing information available pursuant to IDX to MLS participants licensed as real estate brokers.

3. MLSs may, but are not required to, limit the right to display listing information pursuant to IDX to MLS participants engaged in real estate brokerage. (Amended 11/09)
4. MLSs may, but are not required to, allow non-principal brokers and sales licensees affiliated with MLS participants to use information available through IDX to populate their own websites or to use in other IDX displays.

Even if use of information through IDX is provided to non-principal brokers and sales licensees affiliated with MLS participants, such use is subject to the affiliated participants' consent and control and the requirements of state law and/or regulation, and MLS rules. (Amended 05/12)

5. MLSs cannot prohibit participants from downloading and displaying or framing other brokers' listings obtained from other sources, e.g., other MLSs, non-participating brokers, etc., but can, as a matter of local option, require that listings obtained through IDX feeds from REALTOR® Association MLSs be searched separately from listings obtained from other sources. (Amended 11/14)

Note: An MLS Participant (or where permitted locally, an MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

6. MLSs may, as a matter of local option, charge the costs of adding or enhancing their downloading capacity to participants who will download listing information. Assessment of such costs should reasonably relate to the actual costs incurred by the MLS. (Amended 11/06)
7. MLSs may prohibit advertising controlled by participants (including co-branding) on any pages displaying IDX-provided listings. (Amended 05/12)

MLSs permitting advertising (including co-branding) on pages displaying IDX-provided listings may prohibit deceptive or misleading advertising (including co-branding).

For purposes of this provision, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. (Amended 11/09)

**Section 18.1:** Participants' consent for display of their listings by other participants pursuant to these rules and regulations is presumed unless a participant affirmatively notifies the MLS that the participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a participant refuses on a blanket basis to permit the display of that participant's listings, that participant may not download, frame or display the aggregated MLS data of other participants.\* (Amended 05/17)

**Section 18.2:** Participation in IDX is available to all MLS participants who consent to display of their listings by other participants.

**Section 18.2.1:** Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. (Amended 05/12)

**Section 18.2.2:** MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines. (Amended 05/12)

**Section 18.2.3:** Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. (Amended 05/17)

Requires completed Listing Syndication Seller-Opt Out form found on [www.MIAMIREALTORS.com/mls](http://www.MIAMIREALTORS.com/mls)



**Section 18.2.4:** Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location (“uptown,” “downtown,” etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed through IDX must be independently made by each participant. (Amended 05/17)

**Section 18.2.5:** Participants must refresh all MLS downloads and displays automatically fed by those downloads not less frequently than every twelve (12) hours. (Amended 11/14)

**Section 18.2.6:** Except as provided in the IDX policy and these rules, an IDX site or a participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 05/12)

**Section 18.2.7:** Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. (Amended 05/12)

**Section 18.2.8** Any IDX display controlled by a participant or subscriber that:

- a. allows third parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. (Adopted 05/12)

**Section 18.2.9:** Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. (Amended 05/12)

**Section 18.2.10:** An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

**Section 18.2.11:** Participants shall not modify or manipulate information relating to other participants’ listings. MLS participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields.

**Section 18.2.12** All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.\* (Amended 05/17)

\* Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered

electronically to the registered consumer performing the property search or linked to through the devices application. (Amended 5/17)

**Section 18.3: Display:** Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed.

**Section 18.3.1:** The type of listing agreement (e.g. exclusive right to sell/rent/lease, exclusive agency, etc.) may not be displayed.

**Section 18.3.3:** All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g., “thumbnails,” text messages, “tweets,” etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 05/12)

**Section 18.3.5:** Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own websites subject to their participant’s consent and control and the requirements of state law and/or regulation.

**Section 18.3.7:** All listings displayed pursuant to IDX shall show the MLS as the source of the information. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 05/12)

**Section 18.3.8:** Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers’ personal, noncommercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. MIAMI requires use of other disclaimers as necessary to protect participants and/or the MLS from Liability. Displays of minimal information (e.g. “thumbnails, text messages, tweets, etc., of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 05/12)

**Section 18.3.9:** The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer. (Amended 11/17)

**Section 18.3.11:** Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. Displays of minimal information (e.g., “thumbnails”, text messages, “tweets”, etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. (Amended 11/14)

**Section 18.3.12:** -- Display of expired, withdrawn and sold listings\* is prohibited. (Amended 11/15)  
**\*Note:** If “sold” information is publicly accessible, display of “sold” listings may not be prohibited.

**Section 18.3.13:** Display of seller’s(s’) and/or occupant’s(s’) name(s), phone number(s), and e-mail address(es) or other confidential information is prohibited.

**Section 18.3.14:** Participants are required to employ appropriate security protection such as firewalls on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS. (Amended 05/12)

**Section 18.3.15:** Participants must maintain an audit trail of consumer activity on their websites and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of the MLS Rules and Regulations related to use by consumers. (Amended 05/12)

**Section 18.3.16:** Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party.

**Section 18.4:** Service fees and charges for participation in IDX shall be established annually. (Amended 5/05)

## **Virtual Office Websites (VOWs)**

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**Section 19.1: VOW Defined:** A "Virtual Office Website" (VOW) is a participant's Internet website, or a feature of a participant's website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant's oversight, supervision, and accountability.

As used in Section 19 of these rules, the term "participant" includes a participant's affiliated non-principal brokers and sales licensees—except when the term is used in the phrases "participant's consent" and "participant's oversight, supervision, and accountability". References to "VOW" and "VOWs" include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an "Affiliated VOW Partner" (AVP) on behalf of a participant.

"Affiliated VOW Partner" (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant's supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.

As used in Section 19 of these rules, the term "MLS listing information" refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

### **Section 19.2:**

- a. The right of a participant's VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b. Subject to the provisions of the VOW policy and these rules, a participant's VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., "Internet Data Exchange" (IDX).
- c. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant's VOW.

### **Section 19.3:**

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps.
  - i. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, "Registrants"). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to

the terms of use (described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.

- iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.
- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
  - i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant.
  - ii. That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use.
  - iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW.
  - iv. That the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property.
  - v. That the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database.
- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f. The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant. Section 19.4: A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions or get more information about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

**Section 19.5:** A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

**Section 19.6:** A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet.

The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

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

Seller - Listing Syndication Opt-out Form can be found with MLS forms on [www.MIAMIREALTORS.com/mls](http://www.MIAMIREALTORS.com/mls).

The participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

**Section 19.7:**

- a. Subject to Subsection b., below, a participant's VOW may allow third-parties
  - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.
- b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

**Section 19.8:** A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within two (2) business days following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

**Section 19.9:** A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every twelve hours.

**Section 19.10:** Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS®, VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

**Section 19.11:** A participant's VOW must display the participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

**Section 19.12:** A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR®.

**Section 19.13:** A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants

for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

**Section 19.14** A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

**Section 19.15:** A participant's VOW may not make available for search by or display to Registrants any of the following information:

- a) Expired and withdrawn listings  
**Note:** Due to the 2015 changes in IDX policy and the requirement that participants be permitted to make MLS listing information available to Registrants of VOW sites where such information may be made available via other delivery mechanisms, MLSs can no longer prohibit the display of pending ("under contract") listings on VOW sites.
- b) The compensation offered to other MLS participants
- c) The type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d) The seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e) Instructions or remarks intended for cooperating brokers only, such as those regarding showing or security of listed property

**Section 19.16:** A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

**Section 19.17:** A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

**Section 19.18:** A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

**Section 19.19:** A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 500 current listings and not more than 500 sold listings in response to any inquiry or 50% of the listings in the MLS, whichever is less. (Amended 05/17)

**Section 19.20:** A participant shall require that Registrants' passwords be voided and new passwords issued every 90 days.

**Section 19.21:** A participant may display advertising and the identification of other entities ("co-branding") on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

**Section 19.22:** A participant shall cause any listing displayed on their VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

**Section 19.23:** A participant shall cause any listing displayed on their VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

**Section 19.48:** Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

**Section 19.25:** Where a seller affirmatively directs their listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within two (2) business days.

## **Lock Boxes (NAR Policy Statement 7.1)** \_\_\_\_\_

MIAMI makes Lock Boxes available for lease to anyone who participates in the multiple listing service, whether an association member or not. Nothing shall prevent the owner's right to refuse to have a lock box on his property.

A lock box is a container affixed to property containing a device to gain access to the property being marketed by a participant in the MLS. Participants in the MLS or their salespersons (and licensed or certified appraisers) are authorized under certain conditions to obtain an electronic key to open these lock boxes under terms specified by the listing broker. Cooperating brokers and sales licensees, whether functioning as the listing broker or as agents of potential purchasers, must contact the listing broker to arrange appointments to show listed property even if the property has a lock box affixed to it unless the listing broker has given specific permission (through information published in the MLS or otherwise) to show the property without first contacting the listing broker.

## **Lock Box Security Requirements (NAR Policy Statement 7.31)** \_\_\_\_\_

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor: (Amended 05/17)

**1. Types of keys.** Any physical or electronic key, programmer, or other device (hereinafter referred to as key) by which a lock-box can be opened, must be non-duplicative. Being non-duplicative means that it cannot be readily copied in the manner that other types of keys ordinarily are. (Amended 05/17)

*A mobile device (such as, a smart phone, tablet, fob, etc.) can transmit a key to access a lockbox using standard protocols, including, Bluetooth, ZigBee, infrared technology, and others. The applications and software used by mobile devices must contain security controls to allow only authorized users access to the lockbox. (Adopted 5/17)*

*As a matter of local discretion, the listing broker or agent can issue temporary codes/access to the lockbox and property on terms and conditions agreed to in advance by the seller. Temporary codes/access must expire within seventy-two (72) hours after being issued or must be under the control of the listing broker or agent. Temporary codes must be a minimum field size of five (5) characters. (XX,XXX) (Adopted 05/17)*

**2. Security protocols.** Keys must be obtained from the original manufacturer, from a recognized vendor of lock-box systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, associations and MLSs must obtain sufficient information from the original manufacturer and associations and MLSs in order to determine whether the key's pattern, code, or configuration is already in use. (Amended 05/17)

*Electronic lockboxes and electronic keys running on mobile devices must incorporate security protocols to prevent the following types of cyber-attacks:*

- *where an unauthorized user can override or escalate their security credentials*
- *where the communication session between the electronic lockbox and key are recorded and played back later to gain unauthorized access*
- *forging of electronic credentials that could allow an unauthorized user the ability to masquerade as an authorized user*
- *digitally signed updates to electronic keys running on mobile devices or electronic lockbox firmware plus a secured update process to prevent unauthorized software from being introduced into the lockbox system*
- *transmission(s) of frequencies to deceive the lockbox electronics into opening (Adopted 05/17)*

Violating lockbox or electronic key regulations including: providing eKey usage/access to any unlicensed individuals (including but not limited to, public, service providers, lenders, etc.). Supra service will be terminated and member will NOT be assigned any form of Supra service for duration of MIAMI membership.

**3. Availability of lockbox system and keys.** Any lock-box system must be designated as either an activity of an association of REALTORS® or an association-owned and operated MLS. (Amended 05/17)

If the lock-box system is an activity of an association-owned and operated MLS, then every MLS participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.

As matter of local discretion, associations and MLSs can determine that key lease agreements executed by non-principal brokers, sales licensees, unlicensed personal assistants, administrative and clerical staff, and licensed, certified, or those seeking to be licensed or certified as appraisers, must also be cosigned by the designated REALTOR® or the office's broker of record. Lease agreements shall spell out the responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the association or MLS that relate to the operation of the lock box system. The lease agreement shall also provide that keys may not be used under any circumstances by anyone other than the keyholder except as provided elsewhere in this statement of policy. (Amended 05/17)

Associations may, at their discretion, lease keys to affiliate members of associations who are actively engaged in a recognized field of real estate practice or in related fields. In such instances, the lease agreement shall be signed by the keyholder and by a principal, partner, or corporate officer of the keyholder's firm. (Amended 05/17)

Individuals may be required to pay lockbox costs as part of association dues or as part of MLS participation fees pursuant to MLS Policy Statement 7.57, Categorization of MLS Services, Information, and Products and pursuant to NAR Bylaws Official Interpretation #32. No one shall be required to lease a key from the association except on a voluntary basis. (Adopted 5/17)

Associations and MLSs may refuse to sell or lease lock box keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual who has been convicted of a crime within the past seven (7) years under the following circumstances: (Amended 5/17)

A. The association or MLS determines that the conviction(s) relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk, for example through dishonest, deceptive, or violent acts; and (Amended 5/17)

B. The association or MLS gives the individual an opportunity to provide, and the association or MLS must consider, mitigating factors related to the individual's criminal history, including, but not limited to, factors such as:

- the individual's age at the time of the conviction(s);
- nature and seriousness of the crime;
- extent and nature of past criminal activity;
- time elapsed since criminal activity was engaged in;
- rehabilitative efforts undertaken by the applicant since the conviction(s);
- facts and circumstances surrounding the conviction(s); and
- evidence of current fitness to practice real estate. (Amended 5/17)

Associations and MLSs should be sure to evaluate individuals uniformly, and avoid making exceptions for one individual while denying an exception to another individual with a similar criminal history. (Amended 5/17)

Associations or MLSs may suspend the right of lock box keyholders to use lock box keys following their arrest and prior to a final determination on any such charge if, in the determination of the association or MLS, the charge relates to a crime that relates to the real estate business or puts clients, customers, other real estate professionals, or property at risk. (Amended 5/17)



**4. Audit requirement.** Associations or MLSs shall maintain current records as to all keys issued and in inventory, including registered users accessing lockboxes through applications and software used by mobile devices. There shall be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or, alternatively, by receipt of a statement signed by the keyholder and the designated Realtor®, broker of record, or, in the case of an affiliate member, by a principal, partner, or corporate officer of the keyholder's firm, attesting that the key is currently in possession of the keyholder. (Amended 05/17)

If, at the time of inventory, a key is unaccounted for, or if a keyholder refuses or is unable to demonstrate that the key is within their physical control, then the key will be considered unaccounted for and any funds on deposit will be forfeited to the association.

Deposits for electronic programmers or electronic keycards which are leased but which can be deactivated within thirty (30) days may be required as a matter of local determination. (Adopted 11/95)

**5. Seller authority required.** Lock-boxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or any other written document. Inclusion in MLS compilations cannot be required as a condition of placing lock-boxes on listed property. (Amended 05/17)

**6. Reporting missing keys.** Associations or MLSs shall must charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the association or MLS. Upon receipt of notice, the association or MLS must take any steps deemed necessary to resecure the system. (Amended 05/17)

**7. Rules and procedures governing lockbox systems.** Associations and MLSs must adopt written, reasonable, and appropriate rules and procedures for administration of lock-box systems which may include appropriate fines, not to exceed \$15,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the association or MLS and set forth in the rules and procedures. All keyholders, whether or not they are association members or MLS participants; shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lock-box system. (Amended 05/17)

Key lease agreements may contain a liquidated damages provision to offset some or all of the costs in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the keyholder. (Amended 11/97)

**8. Issuing electronic programmers or keypads on temporary basis.** In the event electronic lock-box programmers or keypads are sold or leased, a designated REALTOR® principal or an office's broker of record may purchase or lease additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the issuing association or MLS. When a programmer or keypad is issued on a temporary basis, it shall be the responsibility of the REALTOR® principal or the broker of record to advise the association or MLS in writing that the programmer or keypad has been issued, to whom, and the date and time of issuance within two (2) business days. It shall also be the responsibility of the Realtor® principal or the broker of record to advise the association or MLS in writing within two (2) business days after possession of the previously issued programmer or keypad has been reassumed. (Adopted 05/17)

**9. Requiring "approved" lockbox systems.** As a matter of local discretion, associations and MLSs requires placement of an "approved" lock-box on listed properties if any device giving access to real estate professionals or service providers is authorized by the seller and occupant and is placed on the property. The purpose of this requirement, as adopted by an association or MLS, is to ensure cooperating participants and subscribers have timely access to listed properties. Requiring that a lock-box or other access device be "approved" does not limit the devices that satisfy the requirement to lock-boxes leased or sold by an association or MLS. The association or MLS requires that the devices be submitted in advance for approval, and the access device may be any lock-box or other access device that provides reasonable, timely access to listed property. The association or MLS also may revoke the approval or subject the participant to discipline if the device is used in a manner that fails to continue to satisfy this requirement. (Adopted 05/17)

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