

# **REALTOR ASSOCIATION OF GREATER MIAMI AND THE BEACHES, INC. MULTIPLE LISTING SERVICE 2009**

## **POLICIES AND PROCEDURES**

### **PURPOSE**

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The REALTOR® Association of Greater Miami and the Beaches, Inc. shall maintain for the use of its members, and non-member Participants, a Multiple Listing Service known as the REALTOR® Association of Greater Miami and the Beaches, Inc. Multiple Listing Service (MLS) which shall be subject to the Bylaws of the REALTOR® Association of Greater Miami and the Beaches, 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®

A Multiple Listing Service 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 they 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. (Revised 11/98)

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 the REALTOR® Association of Greater Miami and the Beaches, Inc. to all salespeople registered with the Member.

### **SUPERVISION**

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The Multiple Listing Service shall be operated under the supervision of the Board of Governors

of the Residential REALTOR® Association of Greater Miami and The Beaches, Inc.

### **Definition of MLS Participant (Policy Statement 7.9)**

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 multiple listing service 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

\*Compensation is unconditional except where local MLS rules permit listing brokers to reserve the right to reduce compensation offers to cooperating brokers in the event that the commission established in a listing contract is reduced by court action or by actions of a lender. Refer to Part Two, G., Section 1, Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS®, *Handbook on Multiple Listing Policy*. (Adopted 11/98)

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

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 multiple listing service where access to such information is prohibited by law. Additionally, the foregoing does not prohibit association multiple listing services, at their discretion, from categorizing non-principal brokers, sales licensees, licensed and certified appraisers and others affiliated with the MLS members or participants as users or subscribers and, holding such individuals personally subject to the rules and regulations and any other governing

provisions of the MLS and to discipline for violations thereof. MLSs may, as a matter of local 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. (Amended 5/02)

Where the terms subscriber or user are used in connection with a multiple listing service owned or operated by an association of REALTORS®, they refer to non-principal brokers, sales licensees, and licensed and certified real estate appraisers affiliated with an MLS participant and may, as a matter of local option, also include a participant's affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS participant or the participant's licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the rules and regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the participant's ultimate responsibility for ensuring compliance with the rules and regulations of the MLS by all individuals affiliated with the participant. (Adopted 4/92)

Under the Board of Choice policy, 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 under Board of Choice do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director, except as granted at the discretion of the local board and/or MLS. (Amended 5/97)

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held. This does not preclude an MLS from assessing REALTORS® not holding primary or secondary membership locally fees, dues, or charges that exceed those or, alternatively, that are less than those charged participants holding such memberships locally or additional fees to offset actual expenses incurred in providing MLS services such as courier charges, long distance phone charges, etc., or for charging any participant specific fees for optional additional services. (Amended 11/96)

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. (Adopted 11/95)

## **MEMBER PARTICIPATION**

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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 Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license and are capable of offering and accepting 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 Multiple Listing Service 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 Multiple Listing Service where access such information is prohibited by law.

In the event membership in the REALTOR® Association of Greater Miami and the Beaches 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.

## **NON-MEMBER PARTICIPATION**

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A non-member applicant for MLS Participation who is a principal, partner, corporate officer or branch manager acting on behalf of a principal, shall supply evidence satisfactory to the Association that he has a place of business within the jurisdiction of the REALTOR® Association of Greater Miami and the Beaches, or an Association of REALTOR® contiguous thereto, has no record of recent or pending bankruptcy, has no record of official sanctions involving unprofessional conduct, agrees to complete a course of instruction covering the MLS Policies and Procedures, 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 Participation, an individual must hold a current, valid real estate broker's license. Use of information developed by or published by the Multiple Listing Service is strictly limited to the activities under a participant's licensure(s) and unauthorized uses are prohibited.

## **INTERNATIONAL NON-MEMBER PARTICIPATION**

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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 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 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 Multiple Listing Service 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.

## **DEFINITIONS**

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**Exclusive Right of Sale Listing Agreement.** The written contract between the seller(s) of the property and the participating broker granting 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.** Same as above, with the seller(s) of the property retaining the right to sell the property without obligation of commission. Listings will be identified by an appropriate code (**EA**) in MLS compilations.

**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 (**LR**) 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 (ER), or an exclusive agency (EA) listing as required by state law.*

**Office Exclusive Listing.** An exclusive right of sale listing that the seller(s) has been explained the benefits of the MLS but does not want it published and distributed to other members of the Service and has so indicated in writing.

**Associate.** Any employee or salesperson of a Realtor-member or Non-resident 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.

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

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

**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 County.

**Jurisdiction.** MLS participatory rights and "Participation" shall be available to any REALTOR® (principal) or any firm comprised of REALTOR® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by MLS rules and regulations; agreement to arbitrate contractual disputes with other Participants; and payment of any MLS fees and charges which shall not exceed those assessed to Participants who hold REALTOR® membership in the REALTOR® Association Of Greater Miami and the Beaches, Inc.

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

## A. MLS Antitrust Compliance Policy

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The purpose of multiple listing is the orderly correlation and dissemination of listing information to participants so they may better serve the buying and selling public. Boards and associations of REALTORS® 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 relationships, or in the conduct of their business in the following areas.

Boards and associations of REALTORS® and their MLS's shall not:

1. Fix, control, recommend, or suggest the commissions or fees charged for real estate brokerage services (Interpretation 14).
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; certification 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 (Interpretation 10).
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 (Interpretation 15).
12. Interfere in or restrict participants in their relationships with their affiliated licensees (Interpretations 16 and 17).

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 multiple listing service committees of boards and associations of REALTORS® and separately-incorporated multiple listing services owned by one or more boards or associations of REALTORS®.

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

This policy does not prohibit boards or associations of REALTORS® or their MLS's 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 MLS's 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 with these policies will be required to show cause why their charters should not be revoked.

The numbered references refer to the official interpretations of Article I, Section 2 of the bylaws of the NATIONAL ASSOCIATION OF REALTORS®. (Amended 11/04)

## **B. Types of Multiple Listing Services**

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Basically, there are two types of multiple listing activities used by associations of REALTORS®. The essential characteristics of each may be summarized as follows:

1. A multiple listing activity available for voluntary participation, but requiring 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.

2. A multiple listing activity available to all members (principals), but the submission of any listing is an option of the member; this is termed “a voluntary listing service.”

**Note:** Any multiple listing activity in which it is compulsory that all members of an association of REALTORS® participate and submit information on all designated types of listings would be in direct conflict with the National Association’s bylaws, Article I, Section 2, which bans the adoption by associations of REALTORS® of inequitable limitations on membership. On November 15, 1960, the Board of Directors of the National Association officially adopted the following interpretation: “A requirement to participate in a multiple listing service in order to gain or maintain REALTOR® membership is an inequitable limitation on membership.”

### **Association and MLS Compliance with National Association Policy (Policy Statement 7.17)**

Those associations or multiple listing services found by the National Association to be operating under bylaws or rules and regulations not approved by the National Association are not entitled to errors and omissions insurance coverage and their charters are subject to review and revocation.

### **Information Related to Listings of Commercial and Industrial Property (Policy Statement 7.33)**

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. (Revised 11/04)

### **Jurisdiction of Association Multiple Listing Services (Policy Statement 7.42)**

The jurisdiction of multiple listing services owned and operated by associations of REALTORS® is not limited to the jurisdiction of the parent association(s) 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 multiple listing service whose territory exceeds that of the parent association. Where the territory of an MLS exceeds that of the parent association(s), the authority of the MLS to require offices of a participant or a participant’s

firm to participate in the MLS is limited to offices located within the jurisdiction of the association(s) of REALTORS® that own and operate the MLS or that are parties to a multi-association or regional MLS service agreement. MLSs may, as a matter of local determination, require that each of a firm's offices located within the jurisdiction of the association(s) that own and operate the MLS or that are parties to a multi-association or regional MLS service agreement participate in the MLS if any office of that firm participates in that MLS. (Revised 5/02)

## C. Administration ---

### Operational Issues

#### **Procedures to Be Followed by an Association of REALTORS® Upon Demand for Access to the Association's Multiple Listing Service without Association Membership (Policy Statement 7.25)**

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 multiple listing service 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 (Policy Statement 7.38)**

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 has 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

If any examination on the MLS orientation is given, it shall be an open-book, no-pass, no-fail examination for programmed learning purposes only. (Amended 11/04)

#### **Inclusion of Exclusive Agency Listings in MLS Compilations and Databases (Policy Statement 7.41)**

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 multiple listing service 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. (Amended 11/04)

### **Effective Date of Changes in Multiple Listing Policy (Policy Statement 7.50)**

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 only upon publication of a new edition of the *Handbook* and that a new edition of the *Handbook* be published annually, superseding and replacing all prior editions. (Adopted 11/90)

### **Factual Data Submitted by Appraisers (Policy Statement 7.52)**

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. (Adopted 2/91)

### **Removal of Listings When Participant Refuses - Fails to Timely Report Status Changes (Policy Statement 7.88)**

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). (Adopted 11/07)

### **12 Real Estate Transaction Standards (RETS) (Policy Statement 7.90)**

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 comply with the RETS standards by June 2009, and keep current with the standard's new versions by implementing new releases of RETS within one (1) year from ratification. (Adopted 11/07)

## **LAW**

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### **Compliance with United States Postal Codes (Policy Statement 7.14)**

Associations of REALTORS® and their multiple listing services should comply with the requirements of the United States postal statutes as they relate to delivery of multiple listing service 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 Multiple Listing Service 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 multiple listing service marks. 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 multiple listing service 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 (Policy Statement 7.13)**

In any state where law requires that brokers (principals) who are not REALTORS® be admitted to the multiple listing service of an association of REALTORS®, or in any association which has voluntarily opened its MLS to nonmember brokers and/or appraisers, the official registered multiple listing service 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 multiple listing service 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)

## **LISTING PROCEDURES**

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**Section 1. Listing Procedures:** All exclusive right to sell 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 Multiple Listing Service (also known as Southeast Florida Regional), and are taken by Participants on a listing form acceptable to the Service shall be filed with the Multiple Listing Service within twenty four (24) hours (excepting weekends, holidays and postal holidays) after all necessary signatures of seller(s) have been obtained. (Amended 11/01)

The Multiple Listing Service shall accept exclusive right to sell 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 subagents, buyer agents or both.

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 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 listings with named prospects exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right to sell listings with no named prospects exempted. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right to sell listings with prospect reservations.

**Types of Properties:** Single Family (includes manufactured homes when sold with the land), Townhomes and Condominiums, Residential Rental, Residential Income, Residential Land, Commercial/Industrial – includes commercial lease, Commercial Land and Business Opportunity

**Section 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 1.2 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 only on commercial listings if the listing broker submits, within 24 hours of input, a signed exclusive listing agreement that includes the owner's written request to withhold the address from MLS.

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

**Section 1.4 Change of Status of Listing:** Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the Service within twenty-four (24) hours (excepting weekends, holidays and postal holidays) 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 twenty-four (24) hours (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 be so notified prior to their endeavor to procure a purchaser for the property.

**Section 1.5 Withdrawal of Listing Prior to Expiration:** Listings 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 Multiple Listing Service may remove the listing at the request of the seller. (Adopted 11/96)

**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 listing.

**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 Multiple Listing Service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by Participants. Further, the Multiple Listing Service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-participants.

**Section 1.10 Expiration of Listings:** Listings filed with the Multiple Listing Service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. (Amended 11/01)

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the Service. (Amended 11/01)

**Section 1.11 Termination Date on Listings:** Listings filed with the Service shall bear a definite and final termination date, as negotiated between listing broker and seller.

**Section 1.12 Jurisdiction:** Only listings of the designated types of property located within the jurisdiction of the MLS are required to be submitted to the Service. Listings of property located outside the MLS's jurisdiction will be accepted voluntarily by a Participant, but cannot be required by the Service. (Amended 11/01)

**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 the REALTOR® Association of Greater Miami and the Beaches, Inc. 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.

**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 the REALTOR® Association of Greater Miami and the Beaches, Inc. 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

**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.

## **SELLING PROCEDURES**

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**Section 2. Showings and Negotiations:** Appointments for showings and negotiations with the seller for the purpose of listed property filed with the Multiple Listing Service shall be conducted through the listing broker; except under the following circumstances:

- (a) The listing broker gives 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 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:** The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor or listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

**Section 2.4 Right of Listing Broker in Presentation of Counter-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 (except when the cooperating broker is a subagent). 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:** Sales shall be reported immediately to the Multiple Listing Service by the listing broker unless the negotiations were carried on under Section 2(a) or 2(b) hereof, in which case the cooperating broker shall report, sending a copy to the listing broker within twenty-four (24) hours after acceptance. **The MLS recognizes only such information as submitted to the Service by the listing broker/office.**

**Note:** *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. (Amended 11/01)*

**Section 2.6 Reporting Resolutions of Contingencies:** The listing broker shall report to the Multiple Listing Service within twenty-four (24) hours 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.

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

## Advertising

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### Internet Data Exchange (IDX) Policy (*Amended November 2006*) (Policy Statement 7.58)

Associations of REALTORS® and their multiple listing services must enable MLS participants to display on participants' public websites aggregated MLS active listing information subject to the requirements of state law and regulation. To comply with this requirement MLSs must, if requested by a participant, promptly provide basic downloading of all current listings 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. 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 excluding 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.

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 (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 the IDX site and make that information available to the MLS if the MLS has reason to believe that a participant's IDX site 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.

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 display of their listings by other participants on IDX sites be affirmatively established in writing. 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 as instructed by the seller.

Access to MLS databases of current listing information, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MLS rules.

Participants Internet Web sites may also provide other features, information, or services in addition to IDX information (including Virtual Office Web site ["VOW"] functions) which are not subject to this policy.

### **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 seven (7) days.
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 site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

### **Policies Applicable to Multiple Listing Services**

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

1. prohibit display of expired, withdrawn, or pending listings
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, 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 readily visible color and typeface not smaller than the median used in the display of listing data
6. require that the identity of listing agents be displayed
7. 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.

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 Web sites 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

11. establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to an inquiry

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 may also include other disclaimers necessary to protect the participant and/or the MLS from liability

#### **Additional Local Issues**

1. Where RAMB MLS participatory rights are available to non-member brokers or firms as a matter of law or local determination, the right to display listing information pursuant to IDX may be limited to participants who are REALTORS®.

2. RAMB MLS may limit the right to display listing information available pursuant to IDX to MLS participants licensed as real estate brokers.

3. RAMB MLS may limit 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).

4. RAMB MLS may allow non-principal brokers and sales licensees affiliated with MLS participants to use information available through IDX to populate their own Web sites.

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.

5. RAMB MLS 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 be searched separately from listings obtained from other sources, including other MLSs.

6. RAMB MLS may 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 5/06)

#### **Use of MLS Information in Advertising and Other Public Representations (Policy Statement 7.80)**

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. MLSs may, as a matter of local determination, prohibit advertising or representations about specific properties which are listed with other participants or which were sold by other participants (as either listing or cooperating broker).

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. (Adopted 11/04)

### **Transmittal of Participants' Listings to Aggregators (Policy Statement 7.87)**

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

- a. the listed property's street address or 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. (Adopted 11/06)

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

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

## **PROHIBITIONS** \_\_\_\_\_

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

**Section 4.1 "For Sale" Signs:** Only the "For Sale" 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.*

## **DIVISION OF COMMISSIONS**

**Section 5 Compensation Specified on Each Listing: Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS® (Policy Statement 7.23)**

In filing property with the multiple listing service, 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 subagents, buyer agents, or to brokers acting in other agency or nonagency 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 producing 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 11/95)

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)

\*Relates to Point No. 2 of the MLS antitrust compliance policy.

The multiple listing service 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 multiple listing service shall not disclose in any way the total commission negotiated between the seller and the listing broker.

**Note 1:** The compensation specified on listings filed with the multiple listing service by the participants of the service shall be expressed as a percentage of the gross sales price or as a definite dollar amount. Multiple listing services may, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). The essential and appropriate requirement by a multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of their producing an offer to purchase. (Amended 5/08)

Multiple listing services 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:** Multiple listing services, at their discretion, may adopt 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 produce an offer that ultimately results in a successful transaction. (Amended 5/08)

**Note 3:** 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. Multiple listing services may, as a matter of local discretion, require 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 also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants. All confidential disclosures and confidential information related to short sales must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers. (Amended 5/08)

#### **Agency (Policy Statement 7.11)**

In the multiple listing service of an association of REALTORS®, the cooperating broker in a cooperative real estate transaction is the subagent of the listing broker, the agent of the buyer, or is acting in another recognized agency or nonagency capacity. Such relationships must be fully disclosed to all parties to the contract and to all brokers involved. (Amended 11/96)

**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. (Amended 5/01)

#### **Virtual Office Websites: Policy Governing Use of MLS Data in Connection with Internet Brokerage Services Offered by MLS Participants**

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## **I. Definitions and Scope of Policy**

1. For purposes of this policy, the term “Virtual Office Website” (VOW) refers to a participant’s Internet website, or a feature of a participant’s Internet 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 data, subject to the participant’s oversight, supervision, and accountability.

a. A participant may designate an “Affiliated VOW Partner” (AVP) to operate a VOW on behalf of the participant, subject to the participant’s supervision and accountability and the terms of this policy.

b. A non-principal broker or sales licensee affiliated with a participant may, with the participant’s consent, operate a VOW or have a VOW operated on its behalf by an AVP. Such a VOW is subject to the participant’s supervision and accountability and the terms of this policy.

c. Each use of the term “participant” in this policy shall also include a participant’s non-principal brokers and sales licensees (with the exception of references in this section to the “participant’s consent” and the “participant’s supervision and accountability,” and in Section III.10.a., below, to the “participant acknowledges”). Each reference to VOW or VOWs herein refers to all VOWs, whether operated by a participant, by a non-principal broker or sales licensee, or by an AVP.

2. The right to display listings in response to consumer searches is limited to display of MLS data supplied by the MLS(s) in which the participant has participatory rights. This does not preclude a firm with offices participating in different MLSs from operating a master website with links to such offices’ VOWs.

3. Participants’ Internet websites, including those operated for participants by AVPs, may also provide other features, information, or services, in addition to VOWs (including the “Internet Data Exchange” [IDX] function).

4. The display of listing information on a VOW does not require separate permission from the participant whose listings will be available on the VOW.

5. Except as permitted in Sections III and IV., MLSs may not adopt rules or regulations that conflict with this policy or that otherwise restrict the operation of VOWs by participants.

## **II. Policies Applicable to Participants’ VOWs**

1. A participant may provide brokerage services via a VOW that include making MLS active listing data available, but only to consumers with whom the participant has first established a lawful consumer-broker relationship, 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 agreement(s).

2. A participant’s VOW must obtain the identity of each Registrant and obtain each Registrant’s agreement to terms of use of the VOW, as follows.

a. A Registrant must provide his or her name and a valid e-mail address. 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 c., below). The Registrant may be permitted to access the VOW only after the participant has verified that the e-mail address provided is valid and that Registrant received the terms of use confirmation.

b. The Registrant must supply a user name and a password, the combination of which must be different from those of all other Registrants on the VOW, before being permitted to search and retrieve information

from the MLS database via the VOW. The user name and password may be established by the Registrant or may be supplied by the participant, at the option of the participant. An e-mail address may be associated with only one user name and password. The Registrant's password and access must expire on a date certain, but may be renewed. The participant must, at all times, maintain a record of the name and e-mail address supplied by the Registrant, and the user name and current password of each Registrant. Such records must be kept for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by one or more Registrants, the participant shall, upon request, provide to the MLS a copy of the record of the name, e-mail address, user name, current password, and audit trail, if required, of any Registrant identified by the MLS to be suspected of involvement in the violation.

c. The Registrant must be required affirmatively to express agreement to a "terms of use" provision that requires the Registrant to open and review an agreement that provides at least the following:

i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant

ii. that all data obtained 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 data or 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

After the Registrant has opened for viewing the terms of use agreement, a mouse click is sufficient to acknowledge agreement to those terms. 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.

vi. 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.

d. An 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.

3. 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 properties 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.

4. A participant's VOW must protect the MLS data from misappropriation by employing reasonable efforts to monitor for and prevent scraping or other unauthorized accessing, reproduction, or use of the MLS database.

5. A participant's VOW must comply with the following additional requirements.

a. No VOW shall display the listing or property address of any seller who has affirmatively directed its listing broker to withhold its listing or property address from display on the Internet. The listing broker or agent shall communicate to the MLS that a 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 listing or property address of a seller who has determined not to have the listing or address for its property displayed on the Internet.

b. 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 conforms to the form attached to this policy as Appendix A. The participant shall retain such forms for at least one (1) year from the date they are signed.

c. With respect to any VOW that:

i. 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

ii. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, the VOW shall disable or discontinue either or both of those features as 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 on all participants' websites. Except for the foregoing and subject to Subsection d., below, a participant's VOW may communicate the participant's professional judgment concerning any listing. Nothing shall prevent a VOW from notifying its customers that a particular feature has been disabled at the request of the seller.

d. A VOW 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 VOW operator beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The VOW operator 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 VOW operator shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

e. Each VOW shall refresh MLS data available on the VOW not less frequently than every three (3) days.

f. Except as provided elsewhere in this policy or in MLS rules and regulations, no portion of the MLS database may be distributed, provided, or made accessible to any person or entity.

g. Every VOW must display a privacy policy that informs Registrants of the ways in which information obtained from them will be used.

h. A 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, or whether the listing broker is a REALTOR®.

6. A participant who intends to operate a VOW 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 this policy and any other applicable MLS rules or policies.

7. A participant may operate more than one VOW itself or through an AVP. A participant who operates a VOW itself shall not be precluded from also operating VOWs in conjunction with AVPs.

### III. Policies Applicable to Multiple Listing Services

1. A multiple listing service shall permit MLS participants to operate VOWs or to have VOWs operated for them by AVPs, subject to the requirements of state law and this policy.
2. An MLS shall, if requested by a participant, provide basic downloading of all MLS non-confidential listing data, including, without limitation, address fields, listing types, photographs, and links to virtual tours. Confidential data includes only that which participants are prohibited from providing to customers orally and by all other delivery mechanisms. They include fields containing the information described in Section IV.1. of this policy, provided that sold data (i.e., listing information relating to properties that have sold) shall be deemed confidential and withheld from a download only if the actual sales prices of completed transactions are not accessible from public records. For purposes of this policy, downloading means electronic transmission of data from MLS servers to a participant's or AVP's server on a persistent basis. An MLS may also offer a transient download. In such case, it shall also, if requested, provide a persistent download; provided that it may impose on users of such download the approximate additional costs incurred by it to do so.
3. This policy does not require an MLS to establish publicly accessible sites displaying participants' listings.
4. If an MLS provides a VOW-specific feed, that feed must include all of the non-confidential data included in the feed described in Subsection 2, above, except for listings or property addresses of sellers who have elected not to have their listings or addresses displayed on the Internet.
5. An MLS may pass on to those participants who will download listing information the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity to enable such participants to operate VOWs.
6. An MLS may require that participants:
  - a. utilize appropriate security protection, such as firewalls, as long as such requirement does not impose security obligations greater than those employed concurrently by the MLS, and/or
  - b. maintain an audit trail of Registrants' activity on the VOW and make that information available to the MLS if the MLS has reason to believe that any VOW has caused or permitted a breach in the security of the data or a violation of applicable MLS rules.
7. An MLS may not prohibit or regulate display of advertising or the identification of entities on VOWs (branding or co-branding), except to prohibit deceptive or misleading advertising or 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 (or that of at least one participant, in the case of a VOW established and operated by or for 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.
8. Except as provided in this policy, an MLS may not prohibit participants from enhancing their VOWs by providing information obtained from sources other than the MLS, additional technological services (such as mapping functionality), or information derived from non-confidential MLS data (such as an estimated monthly payment derived from the listed price), or regulate the use or display of such information or technological services on any VOW.
9. Except as provided in generally applicable rules or policies (such as the **Realtor**<sup>®</sup> Code of Ethics), an MLS may not restrict the format of data display on a VOW or regulate the appearance of VOWs.
10. Subject to the provisions below, an MLS shall make MLS listing data available to an AVP for the exclusive purpose of operating a VOW on behalf of a participant. An MLS shall make MLS listing data available to an AVP under the same terms and conditions as those applicable to participants. No AVP

has independent participation rights in the MLS by virtue of its right to receive data on behalf of a participant or the right to use MLS data, except in connection with operation of a VOW for a participant. AVP access to MLS data is derivative of the rights of the participant on whose behalf the AVP is downloading data.

- a. A participant, non-principal broker or sales licensee, or AVP may establish the AVP's right to receive and use MLS data by providing to the MLS a writing in which the participant acknowledges its or its non-principal broker's or sales licensee's selection of the AVP to operate a VOW on its behalf.
- b. An MLS may not charge an AVP, or a participant on whose behalf an AVP operates a VOW, more than a participant that chooses to operate a VOW itself (including any fees or costs associated with a license to receive MLS data, as described in Subsection g., below), except to the extent that the MLS incurs greater costs in providing listing data to the AVP than the MLS incurs in providing listing data to a participant.
- c. An MLS may not place data security requirements or restrictions on use of MLS listing data by an AVP that are not also imposed on participants.
- d. An MLS must permit an AVP to download listing information in the same manner (e.g., via a "Real Estate Transaction Standard" [RETS] feed or via a "File Transfer Protocol" [FTP] download), at the same times and with the same frequency that the MLS permits participants to download listing information.
- e. An MLS may not refuse to deal directly with an AVP in order to resolve technical problems with the data feed. However, the MLS may require that the participant on whose behalf the AVP is operating the VOW participate in such communications if the MLS reasonably believes that the involvement of the participant would be helpful in order to resolve the problem.
- f. An MLS may not condition an AVP's access to a data feed on the financial terms on which the AVP provides the site for the participant.
- g. An MLS may require participants and AVPs to execute license or similar agreements sufficient to ensure that participants and AVPs understand and agree that data provided by the MLS may be used only to establish and operate a VOW on behalf of the participant and not for any other purpose.
- h. An MLS may not:
  - i. prohibit an AVP from operating VOWs on behalf of more than one participant, and several participants may designate an AVP to operate a single VOW for them collectively,
  - ii. limit the number of entities that participants may designate as AVPs for purposes of operating VOWs, or
  - iii. prohibit participants from designating particular entities as AVPs, except that, if an AVP's access has been suspended or terminated by an MLS, that MLS may prevent an entity from being designated an AVP by another participant during the period of the AVP's suspension or termination.

i. Except as stated below, an MLS may not suspend or terminate an AVP's access to data:

- i. for reasons other than those that would allow an MLS to suspend or terminate a participant's access to data, or
- ii. without giving the AVP and the associated participant(s) prior notice and the process set forth in the applicable provisions of the MLS rules for suspension or termination of a participant's access.

Notwithstanding the foregoing, an MLS may immediately terminate an AVP's access to data:

- i. if the AVP is no longer designated to provide VOW services to any participant,
- ii. if the participant for whom the AVP operates a VOW ceases to maintain its status with the MLS,
- iii. if the AVP has downloaded data in a manner not authorized for participants and that hinders the ability of participants to download data, or
- iv. if the associated participant or AVP has failed to make required payments to the MLS in accordance with the MLS' generally applicable payment policies and practices.

11. An MLS may not prohibit, restrict, or impede a participant from referring Registrants to any person or from obtaining a fee for such referral.

#### **IV. Requirements that MLSs May Impose on the Operation of VOWs and Participants**

1. An MLS may impose any, all, or none of the following requirements on VOWs, but may impose them only to the extent that equivalent requirements are imposed on participants' use of MLS listing data in providing brokerage services via all other delivery mechanisms.

a. A participant's VOW may not make available for search by or display to Registrants the following data, intended exclusively for other MLS participants and their affiliated licensees:

- i. expired, withdrawn, or pending listings
- ii. sold data, unless the actual sales price of completed transactions is accessible from public records
- iii. the compensation offered to other MLS participants
- iv. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- v. the seller(s) and occupant(s) name(s), phone number(s) and e-mail address(es), where available
- vi. instructions or remarks intended for cooperating brokers only, such as those regarding showing or security of the listed property

b. The content of MLS data that is displayed on a VOW may not be changed from the content as it is provided in the MLS. MLS data may be augmented with additional data or information not otherwise prohibited from display as long as the source of such other data or information is clearly identified. This requirement does not restrict the format of MLS data display on VOWs or display of fewer than all of the listings or fewer authorized data fields.

c. There shall be a notice on all MLS data displayed indicating that the data is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may also include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

d. Any listing displayed on a VOW shall identify the name of the listing firm in a readily visible color, and reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

e. The number of current or, if permitted, sold listings that Registrants may view, retrieve, or download on or from a VOW in response to an inquiry may be limited to a reasonable number. Such number shall be determined by the MLS, but in no event may the limit be fewer than one hundred (100) listings or five percent (5%) of the listings in the MLS, whichever is less.

f. Any listing displayed on a VOW shall identify the name of the listing agent.

2. An MLS may also impose the following other requirements on the operation of VOWs.

a. Participants displaying other brokers' listings obtained from other sources, e.g., other MLSs, non-participating brokers, etc., shall display the source from which each such listing was obtained.

b. A maximum period, no shorter than ninety (90) days and determined by the MLS, during which Registrants' passwords are valid, after which such passwords must be changed or reconfirmed.

3. An MLS may not prohibit participants from downloading and displaying or framing listings obtained from other sources, e.g., other MLSs or from brokers not participating in that MLS, etc., but may require either:

a. that such information be searched separately from listings obtained from other sources, including other MLSs, or

b. if such other sources are searched in conjunction with searches of the listings available on the VOW, that any display of listings from other sources identify such other source.

## V. Effective Date

MLSs have until not later than February 16, 2009 to adopt rules implementing the foregoing policies and to comply with the provisions of Section III., above, and participants shall have until not later than one hundred eighty (180) days following adoption and implementation of rules by an MLS in which they participate to cause their VOW to comply with such rules.

## SERVICE CHARGES

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**Section 6 Service Fees and Charges:** As approved by the Residential REALTOR® Association of Greater Miami and the Beaches.

## COMPLIANCE WITH RULES

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**Section 7 Compliance with Rules:** The following action may be taken for non-compliance with the rules: (a) For failure to pay any service charge or fee within the time specified by the MLS, and provided that at least ten (10) days notice has been given, the Participant's MLS service shall be suspended until service charges or fees are paid in full.

(b) For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

**Section 7.1 Applicability of Rules to Users and/or Subscribers:** Non-principal brokers, sales licensees, appraisers and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any 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 Residential Board of Governors of the REALTOR® Association of Greater Miami and the Beaches may appoint special Task Forces. All recommendations and decisions of the Task Force are subject to the approval of the Residential Board of Governors of the REALTOR® Association of Greater Miami and the Beaches.

## ENFORCEMENT OF RULES AND REGULATIONS

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**Section 9 Consideration of Alleged Violations:** The Board of Governors of the Residential REALTOR® Association of Greater Miami and the Beaches shall give consideration to all written complaints having to do with violations of the rules and regulations.

### Section 9.1 Appropriate Procedures for Rules Enforcement (Policy Statement 7.21)

In any instance where a participant in an association multiple listing service is charged with violation of the MLS bylaws or rules and regulations of the service, and such charge does not include alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants, or a request for arbitration, it may be administratively considered and determined by the MLS governing committee or MLS board of directors. If a violation is determined, the committee or MLS board of directors may direct the imposition of sanction, provided that the recipient of such sanction may request a hearing before the professional standards committee of the association. If the participant refuses to accept any sanction or discipline proposed, the circumstances and the discipline proposed shall be appealed to the board of

directors of the association of REALTORS® which shall, if it deems the finding of violation proper and the sanction appropriate to the offense, delay the effective date of sanction until final entry by a court of competent jurisdiction in a suit filed by the association for declaratory relief, except in those states where declaratory relief is not available, declaring that the disciplinary action and proposed sanction violates no rights of the multiple listing service participant. If the MLS committee has a procedure established to conduct hearings, the decision of the MLS committee may be appealed to the board of directors of the association of REALTORS®. If a separately incorporated MLS has an established procedure for the conduct of hearings, the decisions of the hearing tribunal shall be appealable to the board of directors of the MLS. Alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants shall be referred to the association's grievance committee 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 board of directors of the association of REALTORS®. (Amended 2/98)

## **Section 9.2 Rules and Regulations**

The rules and regulations should be designed to guide participants but must avoid arbitrary restrictions on business practices. They should be based on experience and not be restrictive upon the personal rights of participating individuals. (Rules and regulations are provided elsewhere in this Handbook for association of REALTORS®' review and adoption.)

**Section 9.3 Complaints of Unethical Conduct:** All other complaints of unethical conduct shall be referred by the Board of Governors to the Secretary of the Residential REALTOR® Association of Greater Miami and the Beaches for appropriated action in accordance with the professional standards procedures established in the Association's bylaws.

Generally, warning, censure, and the imposition of a moderate fine is sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service.

## **Section 9.4 Financial Penalty Not to Exceed \$15,000 (Policy Statement 7.89)**

Notwithstanding the limitations established in the National Association of REALTORS® 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 impose financial penalties on participants or subscribers as discipline for violations of MLS rules or other MLS governance provisions not greater than fifteen thousand (\$15,000) dollars. (Adopted 11/07)

## **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.

Factors hearing panels should 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? (Adopted 11/07)

## **CONFIDENTIALITY OF MLS INFORMATION**

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

**Section 10.1 MLS Not Responsible for Accuracy of Information:** The information published and disseminated by the Multiple Listing Service 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**

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**Section 11** By the act of submitting any property listing data to the REALTOR® Association of Greater Miami and the Beaches, Inc. Multiple Listing Service, the Participant represents that he has been authorized to grant and also thereby does grant authority for the Association to include the property listing data in its copyrighted MLS compilation and also in any statistical report on comparables. If broker or subscribers submit photographs to the MLS for MLS to publish as part of the broker's listing data, then broker represents that broker has the right to authorize the MLS to publish the photograph in the property compilations and elsewhere the MLS data is authorized to appear. The Participant and/or subscriber grants the MLS and other Participants and subscribers the right to reproduce and display the photographs in accordance with MLS rules and regulations. The MLS shall own the copyright to all photos in the MLS compilation.

**Section 11.1** All right, title, and interest in each copy of every Multiple Listing Service compilation created and copyrighted by the REALTOR® Association of Greater Miami and the Beaches, Inc. and in the copyrights therein, shall at all times remain vested in the REALTOR® Association of Greater Miami and the Beaches, Inc.

**Section 11.2** Each Participant shall be entitled to lease from the REALTOR® Association of Greater Miami and the Beaches, Inc. 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.**

## USE OF COPYRIGHTED MLS COMPILATION ---

**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 the REALTOR® Association of Greater Miami and the Beaches, Inc. 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 Multiple Listing Service 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 Multiple Listing Service where access to such information is prohibited by law.

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

**Section 12.2 Reproduction:** Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances. Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers a reasonable\* number of single copies of property listing data contained in the MLS compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participants 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 other manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that the Multiple Listing Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

**Note:** *\*It is intended that the Participant be permitted to provide purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable" as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus "reasonable" in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.*

## USE OF MLS INFORMATION ---

**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 Regional (SEFR) or from the Associations participating in the SEFR 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 ---

**Section 15 Changes in Rules and Regulations:** Amendments to the rules and regulations of the Multiple Listing Service shall be governed and subject to approval by the Residential Board of Governors of the REALTOR® Association of Greater Miami and the Beaches, Inc.

## ARBITRATION OF DISPUTES ---

**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.

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

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### **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.** (Amended 1/04)

**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. (Amended 1/04)

**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, exclusive agency, open listing or other form of contractual agreement between the listing broker and the client 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, 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. (Amended 1/04)

**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 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. (Amended 1/04)

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. (Amended 1/04)

**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. (Amended 1/04)

**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. (Amended 1/04)

**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. (Amended 1/04)

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 subagents of 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. (Amended 1/04)

**Section 16.17** MLS Participants are not precluded from contacting the client 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 Multiple Listing Service 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. (Amended 1/04)

**Section 16.18** MLS Participants, acting as subagents 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 subagents 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. (Amended 1/04)

**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. (Amended 1/04)

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. (Adopted 1/03, Amended 1/04)

**Section 16.20** Participants, users, and subscribers, prior to or after terminating their relationship with their clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements.

**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 competitors, their businesses, or their business practices.

**Section 16.23** IDX Rules

**a.** A MLS participant ("Participant") may operate an IDX site using a third party vendor ("Vendor") that has access to the MLS IDX data only if the MLS IDX data is supplied to the Vendor, at Participant's request, by MLS.

**b.** A Participant who operates an IDX site using a Vendor shall enter into a written agreement with the Vendor that shall provide, in addition to terms and conditions determined and specified by the Participant, that the Vendor will enter into a license agreement with MLS to obtain the IDX data and will use such IDX data only for the purpose of operating an IDX site on behalf of Participant (except to the extent the Vendor operates other IDX sites of other MLS participants.)

**c.** A Participant's use of a Vendor to operate its IDX site constitutes such Participant's acknowledgement and agreement that if MLS believes Vendor has breached its license agreement with MLS (1) MLS may in its sole discretion exercise any all remedies to correct, cure, or prevent such breach, or the continuation of such breach, including without limitation termination of access and delivery to Vendor of the MLS IDX data, and (2) Participant waives any and all claims or causes of action against MLS arising out of MLS's exercise of such remedies or action against Vendor for such breach.

## ORIENTATION

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**Section 17 Orientation:** MLS Participants shall complete an orientation program of MLS Policies and Procedures, also known as rules and regulations.

## AMENDMENT TO LISTING PROCEDURES

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On-line computer offices shall directly input listings and changes into the system without submitting supporting documentation to the Association or the Multiple Listing Service. Offices, that are not on-line, shall, within twenty-four (24) hours of taking a listing, file only the Data Input Form to the Service for entry into the computer by Association staff. Any extension of a listing must be signed by the seller(s) and filed with the Service four (4) days prior to the expiration date. On extended listings, the listing office may modify the computer listing provided the extension is filed with the Service within twenty-four (24) hours. 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 forty-eight (48) hours 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.”**

**REALTOR® ASSOCIATION OF GREATER MIAMI AND THE BEACHES  
FAILURE TO ABIDE BY MLS POLICIES AND PROCEDURES**

For failure to abide by MLS Policies and Procedures, the listing broker will be assessed in the following manner. These charges are accumulated on a per listing basis. These items and charges indicated below are subject to change as from time to time amended by the Residential Board of Governors.

**Rules Fine**

- 1 Agent solicitations by broker offices \$ 100.00
- 2 Bonuses or incentives in any fields other than Broker Remarks \$ 50.00
- 3 Branded Virtual Tours in MLS database \$ 100.00
- 4 Disclosure: Failure to disclose Limited Service Representation (LR) \$ 250.00
- 5 Disclosure: Failure to disclose Dual/Variable Rate Commission \$ 250.00
- 6 Failure to provide Change/Listing Forms when requested by MLS Dept. \$ 100.00
- 7 Failure to report closed sales \$ 50.00
- 8 Failure to abide by showing instructions \$ 50.00
- 9 Failure to submit a minimum of (1) photo \$50.00
- 10 Filing /adding late listing(s) or report \$ 50.00
- 11 Filing /incomplete or incorrect listing or report \$ 50.00
- 12 Incorrect address or folio number \$ 100.00
- 13 Incorrect Map area \$ 50.00
- 14 Information listed in incorrect designated field \$ 50.00
- 15 Misrepresenting occupancy/zoning standards \$ 75.00
- 16 Placing contact information (name, phone number, email, Urls, Photos) in \$ 100.00 "Remarks" "Internet remarks" or "Directions to Property"

**Other Charges:**

- 17 Listing input (RAMB member) \$ 15.00
  - 18 Listing input (none RAMB member) \$ 30.00
  - 19 Corrections/adjustments made by RAMB staff to any MLS listing \$ 15.00
- In accordance with the National Association of REALTORS® Standards of Conduct for MLS Participants, a penalty not to exceed fifteen thousand dollars (\$15,000) may be imposed for violations of MLS rules or other MLS governance provisions (04/08)

MLS Policies and Procedures Revised 08/06  
Revised 04/09