

MARATHON AND LOWER KEYS ASSOCIATION OF REALTORS®, INC.

MLS RULES AND REGULATIONS (Last Revised 4/21)

**PART 1 – KEY DEFINITIONS and PART 2 POLICIES**

Please refer to NAR Handbook on Multiple Listing Policy for all additional information regarding these Key Definitions and Policies not listed below:

**Submission of Photographs: (Local Rules)**

- (All MLS photos are copyrighted by the MLKAR MLS)
- All photographs entered into the MLS service by listing broker is giving the service perpetual, unconditional, intellectual property licensing. Submission of photographs to the MLS service by a broker constitutes a waiver of any intellectual property rights owned by the broker and further, by submitting the photograph, the broker attests that a written release of all intellectual property rights has been obtained by the photographer.
- Agents must have permission to use any and all photographs, videos and virtual tours that they did not take themselves prior to entering them into the MLS system.
- Agents must include at least one photo with all MLS listings, except where sellers expressly direct that photographs of their property not appear in MLS compilations.
- Lifestyle photos are allowed in the MLS system, but must adhere to the rules regarding branding (Agents cannot be in the picture).
- No use of deceptive or misleading representation of property condition allowed. (rev 2/18)

**The Listing / Public / Consumer Remarks and Documents shall not include any of the following:**

- i. Contact, personal, or professional information about the Participant or User
- ii. Any reference to a lockbox agreement
- iii. Website links, Website Names or Third Party Company Name or Contact Information
- iv. User or Company information.
- v. Vendor or third party service provider information
- vi. Owner(s) of record name or contact information
- vii. Showing Instructions
- viii. Inappropriate information or language

(rev. 1/15)

**Model Rules and Regulations for an MLS Operated as a Committee of an Association of REALTORS®**

**Section 1 Listing Procedures**

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the territorial jurisdiction of the multiple listing service, and are taken by participants on exclusive right to sell and exclusive agency listing forms shall be delivered to the MLS within 48 hours after all necessary signatures of seller(s) have been obtained:

- a. Single family homes for sale or exchange.
- b. Vacant lots and acreages for sale and exchange.
- c. Two-family, three-family and four-family residential buildings for sale or exchange.

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

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

The MLS shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other participants of the MLS acting as subagents, buyer agents, transaction brokers and non-representatives.

The listing agreement must include the seller's written authorization to submit the agreement to the MLS.

The different types of listing agreement include:

- a. exclusive right to sell
- b. exclusive agency
- c. open
- d. net

#### Clear Cooperation 8.0 Reminder, Exclusive Listings

Clear Cooperation 8.0 MLS Rule is in effect for all MLKAR members and MLS participants. This was a NAR Mandate passed down to all Real Estate Associations Nationwide and thus must be followed Nationwide. Any exclusive listing taken must be placed in the MLS within (1) business day of any marketing to the public. MLKAR still offers 7 days to place a new listing in the MLS per our local rules so long as you do not market the property to the public in anyway such as, but not limited to those listed in Section 1.01 Clear Cooperation below.

#### Section 1.01 - Clear Cooperation

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 5/1/20)

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and

listings exempt from distribution under Section 1.3 of the NAR model MLS rules if it is being publicly marketed, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

### Section 1.3 Exempt 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 led with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

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

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

All listings entered into the MLS MUST have a signed listing agreement by the seller(s) and offer compensation (9/14)

New listings are not allowed to be entered into the MLS system if the property is currently listed under any status other than expired, sold or cancelled. (5/14)

Neighborhood features entered into the MLS system must be on the same Island of the listed property. (5/14)

The physical address of the condo must be entered into the address field, not the condominium name. (5/14)

Agents must enter the minimum and maximum rental time period on all condominium listings. (5/14)

The Seller's name must appear in the MLS system listing, unless the Broker has written authority from the seller stating otherwise. (5/14)

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 and compensation 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 exempt, 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.

NOTE 2: The MLS does not regulate the type of listings its members may take. This does not mean that the MLS must accept every type of listing. The MLS shall decline to accept open listings (except where acceptance is required by law) and net listings and it may limit its service to listings of certain kinds of property. But if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the MLS.

Note 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

Auction properties may be entered into the MLS system but must offer compensation. Auction properties that are listed in the MLS system must clearly disclose all conditions of the auction, including all fees associated with placing a bid.

### Section 1.1 Types of Properties

Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the participant's option provided, however, that any listing submitted is entered into within the scope of the participant's licensure as a real estate broker:

- a. Residential
- b. Residential Income
- c. Subdivided Vacant Lot and Land
- d. Business Opportunity
- e. Motel-Hotel
- f. Mobile Homes
- g. Mobile Home Parks
- h. Commercial Income
- i. Industrial

#### Section 1.1.1. Listings Subject to Rules and Regulations of the Service

Any listing taken on a contract to be filed with the MLS is subject to the Rules and Regulations of the Service upon signature of the seller(s).

#### Section 1.2. 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.

All required fields must be entered in order to be placed into the MLS system.

#### Section 1.2.1. Limited Service Listings

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)

- c. advise the seller(s) as to the merits of offers to purchase
  - d. assist the seller(s) in developing, communicating, or presenting counter-offers
  - e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property
- will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

### Section 1.3. Exempt 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 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.

When a listed property goes under contract with contingencies the status must be changed to Contingent, Contingent Show or Kick Out within one business day, when the contingences are removed the status must be changed to pending within one business day. (5/14)

### 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 listing broker's concurrence. However, when a seller can document that his exclusive relationship with the listing broker has been terminated, the MLS may remove the listing at the request of the seller.

It is not acceptable to solicit for a listing a withdrawn listing as it is still under an active listing agreement. (5/14)

### 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. Listing Price Specified

The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction.

The listing price cannot be changed while the listed property is under contract. (5/14)

### Section 1.8. Listing Multiple Unit Properties

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

### Section 1.9. No Control of Commission Rates or Fees Charged by Participants

The MLS shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the MLS shall not fix, control recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants.

### 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.

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.

Extension to the listing agreement MUST be made prior to the expiration of the listing. (5/14)

Extensions, price and other property detail changes must have written authorization from the seller. (5/14)

### Section 1.11. Termination Date on Listings

Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing broker and the seller.

### Section 1.12 Service Area

Only listings of the designated types of property located within the **service area** of the MLS are required to be submitted to the service. Listings of property located outside the MLS's **service area** will be accepted if submitted voluntarily by a participant, but are not required by the service.

### 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 obligations except failure to pay appropriate dues, 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 association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the suspended participant's listings in the MLS compilation of the current listing information. Prior to any removal of suspended participant's listings 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 bylaws, MLS bylaws, MLS Rules and Regulations, or other membership obligations except failure to pay appropriate dues, fees or charges), all listings currently filed with the MLS shall, at the expelled 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 expulsion became effective. If a participant has been expelled from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees or charges, the association MLS 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 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 resigned participant's listings from the MLS, the resigned participant should be advised in writing of the intended removal so that the resigned participant may advise his clients.

## **SELLING PROCEDURES**

#### Section 2. Showings and Negotiations

Appointments for showings and negotiations with the seller for the purchase of listed property filed with the MLS shall be conducted through the listing broker, except under the following circumstances:

a. The listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or

b. After reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers.

c. All property listed in the MLS system must be available to show unless otherwise noted in the agent remarks of the dates it is unavailable. Any property listed in the MLS system that is not available to show for 30 days or more MUST be temporally withdrawn or cancelled.

#### 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 and Counter-offers

The listing broker shall 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. 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.

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

### 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 and the 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 instruction. 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 lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee 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 a copy of the purchaser's or lessee's written instructions.

### Section 2.5. Reporting Sales to the Service

Status changes, including final closing of sales and sale prices, contingency, pending, etc, shall be made in the multiple listing service by the listing broker within 1 business day after they have occurred. If negotiations were carried on under Section 2(a) or (b) hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 1 business day after occurrence and the listing broker shall change them in the MLS within 1 business day after receiving notice from the cooperating broker.

NOTE 1: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants.

NOTE 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS.

In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the MLS:

1. categorizes sale price information as confidential and
2. limits use of sale price information to participants and subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below.



The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices.

NOTE 3: As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records.

#### Section 2.6. Reporting Resolutions of Contingencies

The listing broker shall report to the MLS within twenty-four (24) hours that a contingency on file with the MLS has been fulfilled or renewed, or the agreement canceled.

#### Section 2.7. Advertising of Listings 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 MLS the cancellation of any pending sale, and the listing shall be reinstated immediately.

#### Section 2.9 Disclosing the Existence of Offers

Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose if asked whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker.

#### Section 2.10 Availability of Listed Property

Listing brokers shall not misrepresent the availability of access to show or inspect listed property.

### **REFUSAL TO SELL**

#### Section 3. Refusal to Sell

If the seller of any listed property filed with the MLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact should 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 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 broker (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 REALTORS®' 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 16-3. 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 seeking the listing upon its expiration.

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

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

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

##### Section 4.4 Use of the Terms MLS and Multiple Listing Service

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

##### Section 4.5 Only One Listing for the Same Property May be on the MLS

In the event that a buyer, under a contract for sale and purchase resulting from a current MLS listing lists the property for resale, the MLS shall not accept the listing until after the closing occurs. Thus, only one listing for the same property may be on the MLS at one time. (4/05)

## **DIVISION OF COMMISSIONS**

### Section 5 Compensation Specified on Each Listing

The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker's performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule. The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

In filing a property with the MLS of an association of REALTORS, the participant of the service is making blanket unilateral offers of cooperation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell. <sup>1</sup>

<sup>1</sup> The compensation specified on listings filed with the MLS shall appear in one of two forms. The essential and appropriate requirement by an Association MLS is that information to be published shall clearly inform the Participants as to the compensation they will receive in cooperative transaction unless advised otherwise by the listing broker in writing in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:

1. By showing a percentage of the gross selling price.
2. By showing a definite dollar amount.

The listing broker retains the right to determine the amount of compensation offered to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law) which may be the same or different.

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

Note 1: The MLS shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association MLS shall not publish the total negotiated

commission on a listing which has been submitted to the MLS by a participant. The association MLS shall not disclose in any way the total commission negotiated between the seller and the listing broker.

Note 2: The listing broker may, from time to time, adjust the compensation offered to other MLS participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised.

Note 3: The MLS shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

Note 4: 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 submit an offer that ultimately results in a successful transaction.

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

Note 6: Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential 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 required by the lender as a condition of approving the sale will be apportioned between 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.

Note 7: While MLSs are not required to authorize participants to offer While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define "seller concessions" for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of "seller concessions" is suggested but not required for adoption:

Points paid by seller on behalf of buyer, seller-paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. (*Adopted 05/12*)

#### Section 5.0.1 Disclosing Potential Short Sales

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing participants.

When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing agreement, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.

Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within 24 hours of receipt of notification from the lender.

#### Section 5.1 Participant as Principal

If a participant or any licensee (or 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 MLS, 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 agreement (i.e., one in 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/lease 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 the 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 inquires from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction, or alternatively in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease.

## **SERVICE CHARGES**

#### Section 6 Service Fees and Charges

The following service charges for operation of the MLS are in effect to defray the costs of the service and are subject to change from time to time as determined by the MLS committee, subject to approval of the Board of Director's.

- (a) Initial Participation Fee: An applicant for participation in the service shall pay an application fee of \$500.00 with such fee to accompany the application.  
NOTE: The initial participation fee shall approximate the cost of bringing the service to the participant.
- (b) Recurring Access Fee: Access fees for each participant shall be in the amount of \$40.00 per month if paid by check annually or semiannually, if paid other than annual or semiannual such as monthly the fee is \$50 per month times each licensee whether licensed as a broker or salesperson who is employed by or affiliated as an Independent Contractor with the participant.
- (c) Billing Statements: Billing statements shall be addressed to the participant on the last day of each month for that month's services.
- (d) Payment Due: Payment of MLS fees shall be made within ten (10) days of billing. Services may be suspended if payment is not made within 30 days. Payment in full is required to the MLS by the participant.
- (e) However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated.\*  
(Adopted 11/17)
- (f) Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, charge recurring fees. (Amended 11/17)
- (g)

Section 6.1 MLS FINES:

These Rules and Regulations are set up to give the buying and selling public the best possible service and to provide proper and equitable cooperation between participants. The listing office will be notified if there is a violation of the MLS Rules and Regulations.

- (a) For not inputting a new listing with the computer service 7 days after all signatures have been obtained unless they have a signed request by the seller to not place in the MLS, the listing member shall receive a warning, quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100.
- (b) For incorrect information on a listing, personal contact information/and or company information in Virtual Tours, documents, consumer remarks, and photos on a listing, and/or non mapping of properties, the listing member shall receive a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100.
- (c) For failing to make status changes within one business day after all necessary signatures have been obtained, the listing member shall receive a warning, quoting the current policy for the first offense only. The second day or second offense will incur an assessment of \$500. The third offense or third day will incur an assessment of \$3000. The fourth offense or fourth day will incur a suspension of MLS Access for 30 days and will not be reactivated until all fines are paid and status is changed.
- (d) For not complying with a requested listing audit, sold audit, or status change audit including providing listing agreement, purchase contract or other documentation requested by staff within 24 hours after the requested date, the listing member shall receive a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100. If information not provided within 48 hours an additional offense may be fined.

- (e) For use of photographs that are not yours without prior written authorization of photograph owner, the listing member shall receive a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100.
- (f) For Including Branding Information such as: Agent Contact Information, Phone Number, Email Address, Website Address, Company Logo, Visible Yard Sign, Agent Photo, or other nonproperty descriptive text on photos, tours and videos on any part of an MLS Listing except (agent remarks), the listing member shall receive a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100.
  - (g) For Violation of any IDX Rule, the listing member shall receive suspension of Data feed and a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100.
  - (h) For providing MLS Access to an unauthorized party, the listing member shall receive a \$5,000.00 dollar fine. (rev 1/15)
  - (i) For Caravan “No Show’s” on a Lower Keys caravan may be subjected to a \$25.00 fine. A “No show” is defined as a agent that that places a property on the caravan and then does not show up to open the house for the caravan (rev 5/14)
  - (j) MLS Bulk Email is for official Real Estate Business Emails only. (Such as: MLS Listing Updates, Open Houses, Rental Requests, etc.) MLS Bulk email is not allowed for any personal use. (Such as but no limited to: Any Non-Real Estate Issues, Party Invites, Personal Property for Sale, Complaints of any type, etc.) Subject to possible suspension or revocation of MLS Data Access and Feed. \$100 - \$500 1<sup>st</sup> violation, \$500 - \$1000 2<sup>nd</sup> violation, \$1000 - \$5000 3<sup>rd</sup> Violation. (rev 11/16)
  - (k) No use of deceptive or misleading representation of property condition. The listing member shall receive a warning quoting the current policy for the first offense. The second will incur an assessment of \$50. The third offense will incur an assessment of \$100. (rev 2/18)

## COMPLIANCE WITH RULES

Section 7—Compliance with Rules—Authority to Impose Discipline: By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

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

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

## Section 7.1 Compliance with Rules

The following action may be taken for noncompliance with the rules:

- a. for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the 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

**Note:** Generally, warning, censure, and the imposition of a moderate fine are 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. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations.

## Section 7.2 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 affiliated with the participant.

**Note:** Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or subscribers affiliated with MLS members or participants.

## **MEETINGS**

### Section 8 Meetings of the MLS Committee

The MLS committee shall meet for the transaction of its business at a time and place to be determined by the committee or at the call of the chairperson.

#### Section 8.1 Meetings of MLS Participants

The committee may call meetings of the participants in the service to be known as meetings of the MLS.

#### Section 8.2 Conduct of the Meetings

The chairperson or vice chairperson shall preside at all meetings or, in their absence, a temporary chairperson from the membership of the committee shall be named by the chairperson or, upon his failure to do so, by the committee.

## **ENFORCEMENT OF RULES OR DISPUTES**

### Section 9 Consideration of Alleged Violations



The Committee shall give consideration to all written complaints having to do with violations of the rules and regulations.

### Section 9.1 Violations of Rules and Regulations

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

If, rather than conducting an administrative review, 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 within twenty (20) days of the decision being rendered. Alleged violations involving unethical conduct 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.

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged violation of one or more of the provisions of Section 16 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the MLS committee and if a violation is determined, the MLS committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the professional standards committee of the association in accordance with the bylaws of the association.

If, rather than conducting an administrative review, the MLS committee has a procedure established to conduct hearings, the decision of the hearing tribunal may be appealed to the board of directors of the association. Alleged violations of Section 16 of the rules and regulations shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association, except that if the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association.

### Section 9.2 Complaints of Unethical Conduct

All other complaints of unethical conduct shall be referred by the committee to the secretary of the association of REALTORS for appropriate action in accordance with the professional standards procedures established in the association's bylaws.

## **CONFIDENTIALITY OF MLS INFORMATION**

### Section 10 Confidentiality of MLS Information

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

### Section 10.1 MLS Not Responsible for Accuracy of Information

The information published and disseminated by the service is communicated verbatim, without change by the service, as filed with the service by the participant. The service does not verify such information provided and disclaims any responsibility for its accuracy. Each participant agrees to hold the service 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 COMPILATIONS<sup>1</sup> AND COPYRIGHTS**

### Section 11

By the act of submitting any property listing content to the MLS, the participant represents that he has been authorized to license and also thereby does license authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property. (Amended 5/06)

#### Section 11.1

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Marathon and Lower Keys Association of REALTORS®, and in the copyrights therein, shall at all times remain vested in the Marathon and Lower Keys Association of REALTORS®.

#### Section 11.2

Each participant shall be entitled to lease from the Marathon and Lower Keys Association of REALTORS® 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 such compilation. The participant shall pay, for each such copy, the rental fee set by the Association.<sup>2</sup>

Participants shall acquire by such lease only the right to use the MLS compilations in accordance with these rules.

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<sup>1</sup> The term MLS compilation, as used in Sections 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 whatsoever.

<sup>2</sup> This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

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

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

To qualify for this safe harbor, the OSP must:

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

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

## **USE OF COPYRIGHTED MLS COMPILATIONS**

### Section 12 Distribution

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the association, and shall not distribute any such copies to persons other than subscribers who are affiliated with such participant 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 an association’s MLS is strictly limited to the activities authorized under a participant’s licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation, or membership or any right of access to information developed by or published by an association’s MLS where access to such information is prohibited by law.

### Section 12.1 Display

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

## Section 12.2 Reproduction

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

Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers, a reasonable<sup>1</sup> number of single copies of property listing data contained in the MLS compilation which relate to any properties in which prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

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

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

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

It is specifically prohibited for any member of the Multiple Listing Service to allow any other person, not a member or otherwise specifically authorized, to access any multiple listing service data. Violation of this rule is punishable by expulsion, suspension of membership, and/or a fine not to exceed \$5000. Any alleged violation of this rule shall be determined and the punishment decided by a hearing panel appointed in accordance with the procedures for the conduct of an ethics hearing, as the Association shall adopt from time to time in accordance with the National Association of Realtors Code of Ethics and Arbitration Manual. The case against the alleged violator shall be presented by such person as shall be designated by the Chairperson of the Grievance Committee. Appeals from the decision of the panel shall also be conducted in accordance with the procedures and rules applicable to ethics hearings.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

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<sup>1</sup> It is intended that the participant be permitted to provide prospective 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 Marathon and Lower Keys Association of REALTORS® (alternatively, from the Marathon and Lower Keys Association of REALTORS® MLS) for the period (date) through (date).”

Appraisers who are members shall use the information solely for the purpose of providing background and comparable information for appraisals in connection with the purchase, sale, lease, ownership, financing and refinancing of real property and for other similar uses. Members shall use information with respect to any real property for the preparation of calculations, appraisals or reports only for lenders, sellers, or buyers of such real property.

## **CHANGES IN RULES AND REGULATIONS**

### Section 14 Changes in Rules and Regulations

Amendments to the rules and regulations of the service shall be made by a two-thirds vote of the members of the MLS committee, subject to approval by the board of directors of the association.

## **ARBITRATION OF DISPUTES**

### Section 15 Arbitration of Disputes

By becoming and remaining a participant, each participant agrees to arbitrate 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 REALTORS®
- b. If the disputants are members of different association of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the Florida Association of REALTORS.

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

Awards: The obligation to arbitrate includes the duty to either 1) pay an award to the party(ies) named in the award or 2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account

maintained for this purpose. Failure to satisfy the award or deposit the funds with the association within ten (10) days may be considered a violation of the MLS rules and may subject the Participant to disciplinary action at the sole discretion of the MLS.

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

### Section 16.1

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

### Section 16.2

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

### Section 16.3

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

### Section 16.4

MLS participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS participant, refuses to disclose the expiration date and nature of such listing;(i.e., and exclusive right to sell, an 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 an existing exclusive listing.

### Section 16.5

MLS participants shall not solicit buyer/tenant agency agreements from buyers/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 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.

#### Section 16.9

MLS participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not 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 discussion, 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 deemed "general" for the purposes of this rule.

The following types of solicitation are prohibited:

Telephone and 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 and 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 other MLS participants.

#### Section 16.13

MLS participants, prior to entering into a representation 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.

#### Section 16.14

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

#### Section 16.15

MLS participants, acting as buyers or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative at first contact and shall provide written confirmation of such disclosure to the seller/landlord's representative not later than execution of any purchase or lease agreement.

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

#### Section 16.16

MLS participants, acting as representatives or brokers of sellers/landlords or a 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.

#### 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 of 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.

#### Section 16.18

MLS participants, acting as subagents or as buyer/tenant representatives or brokers, shall not use the terms 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.

#### Section 16.19

All dealing 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 with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.



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

#### Section 16.20

Participants, users, and subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients 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 assign ability 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 other real estate professionals, their businesses, or their business practices.

#### Section 16.23

MLS participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner.

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#### Section 16.24

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

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

## **ORIENTATION**

#### Section 17 Orientation

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

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

## **INTERNET DATA EXCHANGE (IDX) POLICY AND RULES**

### **INTERNET DATA EXCHANGE (IDX) POLICY AND RULES**

#### Section 18 IDX Defined

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

#### Section 18.1 Authorization

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

Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. (Amended 05/17)

A participant may elect to display framed or downloaded active listings of the FLORIDA KEYS MLS (consisting of The Florida Keys Board MLS and the Marathon and Lower Keys Association of REALTORS) on participant's Web site, or a Web site under participant's exclusive and complete control, provided that the participant comply with the rules, regulations and policies of the participant's MLS as may be modified from time to time.

Downloadable data will be made available in a format established at the sole discretion of the Marathon and Lower Keys Association of REALTORS®, Inc. MLS and in accordance with the rules and regulations of The Marathon and Lower Keys Association of REALTORS®, Inc. MLS.

#### Section 18.2 Participation

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

##### Section 18.2.1

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

**Section 18.2.2**

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

**Section 18.2.3**

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

**Section 18.2.4**

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

**Section 18.2.5**

Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve (12) hours. (Amended 11/14)

**Section 18.2.6**

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

**Section 18.2.7**

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

**Section 18.2.8**

Any IDX display controlled by a participant or subscriber that

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

**Section 18.2.9**

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

**Section 18.2.10**

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

feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. (Adopted 11/14)

**Section 18.2.11**

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

**Section 18.2.12**

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

**Section 18.3 Display**

Display of listing information pursuant to IDX is subject to the following rules:

**Section 18.3.1**

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

**Section 18.3.1.1**

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed.

**Section 18.3.5**

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

**Section 18.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information.\* (Amended 05/17)  
\*Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. (Amended 5/17)

**Section 18.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability.\* (Amended 05/17)

**Section 18.3.13**

Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.

**Section 18.3.16**

Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

Section 18.3.17

If a thumbnail view of listing is provided on the site, then the Participant must display the MLS logo on each listing not owned by the Participant with an indication that the logo represents listings not owned by the displaying Participant. All detailed listing information must also display the MLS logo indicating that the listing is not owned by the displaying broker. (See disclosure requirements.)

Section 18.3.18

Any Participant utilizing the download function for MLS data must enter into a “Downloading Agreement” prior to any data being displayed from The Marathon and Lower Keys Association of REALTORS®, Inc. MLS. All downloads will be by the method and in the format set forth by The Marathon and Lower Keys Association of REALTORS®, Inc. MLS, at their sole discretion for Participants use.

Section 18.3.19

A participant or an agent may choose to use the Smart Frame Solution of the Florida Keys MLS to display MLS active listings. In that case, the Listing Broker’s Company name is not required to be listed nor would the use of the MLS Logo be necessary on this site to identify listings not belonging to the displaying Broker.

Section 18.4 Service Fees and Charges

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

MLS Required Disclosure on detailed and thumbnail information:

*“The data relating to real estate for sale on this web site come in part from the Internet Data Exchange program of the Marathon and Lower Keys Association of REALTORS®, Inc. MLS. Real Estate listings held by brokerage firms other than (name of displaying real estate firm) are marked with the MLS logo and detailed information about them includes the name of the listing broker’s office.”*Section 19



Section 19.1 VOW Defined

- a. A Virtual Office Website (“VOW”) is a participant’s Internet website, or a feature of a participant’s website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS Listing Information, subject to the participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant’s oversight, supervision, and accountability.
- b. As used in Section 21 of these Rules, the term “participant” includes a participant’s affiliated nonprincipal brokers and sales licensees – except when the term is used in the phrases “participant’s

consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all VOWs, whether operated by a participant, by a non-principal broker or sales licensee, or by an Affiliated VOW Partner (“AVP”) on behalf of a participant.

- c. “Affiliated VOW Partner” (“AVP”) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability and compliance with the VOW Policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS Listing Information except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS Listing Information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.
- d. As used in Section 19 of these Rules, the term “MLS Listing Information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

### Section 19.2

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

### Section 19.3

- a. Before permitting any consumer to search for or retrieve any MLS Listing Information on his or her VOW, the participant must take each of the following steps:
  - i. The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
  - ii. The Participant must obtain the name of and a valid email address for, each Registrant. The participant must send an email to the address provided by the Registrant confirming that the Registrant has agreed to the Terms of Use (described in subsection (d) below). The participant must verify that the email address provided by the Registrant is valid and that the Registrant has agreed to the Terms of Use.
  - iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any email address is associated with only one user name and password.
- b. The participant must assure that each Registrant’s password expires on a date certain but may provide for renewal of the password. The participant must at all times maintain a record of the name, email address, user name, and current password of each Registrant. The participant must keep such records for not less than 180 days after the expiration of the validity of the Registrant’s password.

- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS Listing Information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, email address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a "Terms of Use" provision that provides at least the following:
  - i. That the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
  - ii. That all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. That the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
  - iv. That the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connect with the Registrant's consideration of the purchase or sale of an individual property
  - v. That the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database
- e. The Terms of Use Agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f. The Terms of Use Agreement shall also expressly authorize the MLS, and other MLS participants or their duly authorized representatives, to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The Agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

#### Section 19.4

A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions, or get more information, about any property displayed on the VOW. The participant, or a non-principal broker or sales licensee licensed with the participant, must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

#### Section 19.5

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

(NOTE: MLSs may adopt rules requiring participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.)

#### Section 19.6

- a. A Participant's VOW shall not display listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected

not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as email, fax, or otherwise, the listings of sellers who have determined not to have the listing for their 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 include the following (or a substantially similar) provision:

#### **Seller Opt-Out Form**

1. Please check either Option a or Option b

a.  I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.

b.  I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.

2. I understand and acknowledge that, if I have selected option a, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.

\_\_\_\_\_  
initials of seller

- c. The Participant shall retain such forms for at least one year from the date they are signed, or one year from the date the listing goes off the market, whichever is greater.

#### Section 19.7

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

#### Section 19.8

A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within 48 hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.



#### Section 19.9

A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

#### Section 19.10

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

#### Section 19.11

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

#### Section 19.12

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

#### Section 19.13

A participant who intends to operate a VOW to display MLS Listing Information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

#### Section 19.14

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

#### Section 19.15

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

- a. The compensation offered to other MLS participants;
- b. The type of listing agreement, i.e., exclusive right to sell or exclusive agency;
- c. The seller's and occupant's name(s), phone number(s), or e-mail address(es);
- d. Instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property.

#### Section 19.16

A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information

with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

#### Section 19.17

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

#### Section 19.20

A participant shall require that Registrants' passwords be reconfirmed or changed every 180 days.

(Note: The number of days passwords remain valid before being changed or reconfirmed must be specified by the MLS in the context of this rule and cannot be shorter than 90 days. Participants may, at their option, require Registrants to reconfirm or change passwords more frequently.)

#### Section 19.21

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

#### Section 19.22

A participant shall cause any listing displayed on his or her VOW that is obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.

#### Section 19.23

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

#### Section 19.24

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

#### Section 19.25

Where a seller affirmatively directs their listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within 48 hours.

#### Section 20 Photographs and Listing Information

Listing Broker consents to storage, reproduction, compiling, and distribution of listings and listing information, including photographs to the extent necessary to fulfill the defined purposes of MLS. By submitting photographs or other information, listing broker warrants that it has the rights in submitted information necessary to grant these rights to MLS.

#### Section 21 Computer Responsibility

The Association MLS has FBS FLEXMLS available for use by the participants for listing, selling and all Multiple Listing activities.

- a. Each participant shall be responsible for entering into the online computer system all listing agreements, sales, terms, price changes, and withdrawals from their inventory. The only exceptions to this will be reinstatement of an expired listing. This function must be done by the MLS.
- b. Listings, sales, terms, price changes and withdrawals must be entered into the MLS computer system by online terminal users within forty eight (48) hours after all signatures have been received on the authorized forms.
- c. Sales shall be entered into the MLS computer system with forty eight (48) hours after both the buyer and seller has signed the sales contract.
- d. When the sale is closed, canceled or buyer is disqualified, it shall be the responsibility of the Participant to enter this information into the MLS computer system within forty eight (48) hours. (rev. 8/14)
- e. The use of all computer functions shall be in accordance with the computer instructions