

12.16 Use of Active and Sold Listing Information on Internet (Also known as Internet Data Exchange “IDX”). IDX is a means by which listing brokers permit limited electronic display of their active, pending and sold listing data in accordance with the IDX rules set forth herein, by other broker Participants and R.E. Subscribers websites and using applications for mobile devices that said participating Broker Participants and R.E. Subscribers control.

(a) **Authorization** Subject to paragraphs (b) through (g) below, and notwithstanding anything in these rules and regulations to the contrary, Broker Participants and R.E. Subscribers may display on their public websites aggregated MLS active, pending and sold listing information through either downloading and placing the data on the Participants or Subscriber’s access website (if such a site is available). Such use of information pertains to active and sold listings only and shall exclude all other statuses for public display. Broker Participants and R.E. Subscribers must apply to have their sites approved by San Diego MLS staff to ensure rules compliance;

(b) **Consent** The listing broker’s consent for such Internet displays is presumed, in satisfaction of SAN DIEGO MLS Rule 12.8, unless a listing broker affirmatively notifies SAN DIEGO MLS that the listing broker refuses to permit display on either on a blanket or on a listing-by-listing basis. Listing brokers that refuse to permit other Broker Participants or Real Estate Subscribers to display their listing information on a blanket basis may not display MLS active, pending or sold listing information of other broker’s listings;

(c) **Display Content** Broker Participants and R.E. Subscribers may display the address field as well as the physical characteristics of listings; however Participants and Subscribers may not display confidential information fields as determined by SAN DIEGO MLS, Inc. such as that information intended for cooperation brokers rather than consumers;

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(d) Listing Attribution All listings on a Broker Participant or R.E. Subscriber's site displayed by framing or other electronic means shall identify the name of the listing firm in a manner designed to easily identify such listing firm. Such identification shall be in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of the listing data. No listing broker names will be required, however, for a one-line or thumbnail search result display format as long as there is one or more additional display formats available for the listing and each subsequent display format identifies the listing broker. Information displayed in a one-line or thumbnail search result, text message and/or on sites where consumers view, "follow" and/or subscribe to Participants or Subscriber's feed, (e.g. Social Media) are exempt from this requirement only when linked directly to an approved IDX site that includes all required disclosures. Social Media posts shall not be misleading to the public and must represent a true picture as defined in MLS Rule 12.10.

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

(e) **Modifications** Broker Participants and R.E. Subscribers shall not modify the information displayed pursuant to these SAN DIEGO MLS, Inc. MLS rules and regulations. However, permissible MLS data may be augmented with additional data not otherwise prohibited from display, provided the source of any additional data is clearly identified;

(f) **Source and Update** Information displayed shall indicate the source of the information being displayed and the most recent date updated. Broker Participants and R.E. Subscribers shall update all downloads and refresh all data at least once every twelve (12) hours;

(g) **Usage and Distribution Limitations** Sharing of the MLS compilation with any third party not authorized by SAN DIEGO MLS, Inc. is prohibited. Broker Participants and R.E. Subscribers shall indicate on their websites that the information being provided is for consumer's personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing;

(h) **Display Purpose** Broker Participants and R.E. Subscribers may not use IDX-provided listings for any purpose other than display on their websites. This does not require Broker Participants and R.E. Subscribers to prevent indexing of IDX listings by recognized search engines;

(i) **Restricted Display** Listing or property addresses of sellers who have directed their listing brokers to withhold their listing or their property address from display on the Internet shall not be accessible via IDX sites;

(j) **Selective Listing Display** Not all listings from the MLS must be displayed as long as any exclusions from display on Broker Participants' and R.E. Subscribers' IDX site are based on objective criteria, e.g. type of property, listed price or geographical location.

(k) **Restricted Access** No portion of the MLS database shall be distributed, provided to or made accessible to any person except as provided for in these rules and/or in the National Association of Realtors IDX policy;

(l) **Brokerage Identification** When displaying listing content, a Participant's or Subscriber's website must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface;

(m) **Co-Mingling** A Broker Participant or R.E. Subscriber may co-mingle the listings of other Participants with listings from other MLS sources on its website, provided all such displays are consistent with these rules. Co-mingling is (a) the ability for a visitor to the

website to execute a single search that searches any portion of the IDX database at the same time it searches listing data from any other source(s); or (b) the display on a single web page of any portion of the IDX database and listing data from any other source;

(n) Third Party Comments and Automated Value Estimates Any IDX site 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, shall disable or discontinue either or both of those features as to the seller's listing at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Broker Participants' and R.E. Subscribers' websites. Except for the foregoing and subject to section (o) below, a Broker Participant's or R.E. Subscribers' IDX site may communicate the Broker Participant's or R.E. Subscriber's professional judgment concerning any listing. Nothing shall prevent an IDX site from notifying its viewers that a particular feature has been disabled at the request of the seller;

(o) **Making Corrections** Broker Participants and R.E. Subscribers 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 Broker Participants and R.E. Subscribers beyond that supplied by the MLS and that relates to a specific property displayed on the IDX site. Broker Participants and R.E. Subscribers shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for that property explaining why the data or information is false. However, the Broker Participants and R.E. Subscribers shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment;

(p) **Search Result Limitation** Broker Participants and R.E. Subscribers shall limit the number of listings that a viewer may view, retrieve, or download to not more than 500 in response to any inquiry;

(q) **Advertising** Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the Broker Participant's and/or R.E. Subscriber's logo and contact information is larger than that of any third party.

12.16.1 Notification by Authorized Participants and Subscribers. Broker Participants and R.E. Subscribers partaking in the display of MLS active listing information of other brokers' listings pursuant to § 12.16 must notify the MLS before displaying said MLS active listing information and must make their website directly accessible to the MLS and other MLS Participants for purposes of monitoring/ensuring compliance with applicable rules and policies.

12.16.2 Right to Charge for Download. The MLS has the right to charge the costs of adding or enhancing its downloading capacity to Participant and Subscribers who request downloading of listing information pursuant to § 12.16.

12.16.3 Listing Broker's Right to Opt Out of Internet Advertising of MLS

Information. If the MLS advertises MLS information on the Internet or licenses MLS Information for advertising on the Internet, the listing broker shall have the right to opt out of such advertising in accordance with the MLS procedures for opting out. The listing broker also shall have the right to refuse to have listings displayed on a blanket basis or on a listing by listing basis in accordance with § 12.16 by affirmatively notifying the MLS in accordance with the MLS procedures for opting out. Notwithstanding anything in these rules and regulations to the contrary, the MLS reserves the right to determine whether to provide Internet advertising services and whether such services are to be made available to non-MLS members.

12.16.4 Website Name and Status Disclosure. MLS Participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner. Websites of Subscribers affiliated with a Participant's firm shall disclose the firm's name and the Subscriber's state(s) of licensure in a reasonable and readily apparent manner.