

APPENDIX A: ARTICLE 18 – BROKER RECIPROCITY (BR) OR (IDX)

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. (N-Amended 5/17).

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have given blanket authority for other participants to display their listings through IDX, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution.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

18.2 PARTICIPATION - Participation in IDX is available to all MLS participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other participants. (N-Amended 11/09).

Engaged for the purpose of an IDX approval means Participants (other than appraisers) must actively, continually, and on an ongoing basis:

- list real property in the *CincyMLS market* as a primary agent; and/or
- represent buyers and cooperates with listing brokers in the *CincyMLS market*.

NOTE: Solely engaging in referral activities *does not* qualify for an IDX Data Feed.

To determine the eligibility of an IDX Participant, the CincyMLS will look at the following criteria:

- a. Is the Participant contributing its listings to the Broker Reciprocity (BR) program?
- b. Has the Participant completed the Data Access Agreement?
- c. Has the Participant represented buyers or sellers on CincyMLS in the recent 12 months?

If the answer is yes to all three, the Participant will be deemed eligible, subject to compliance with the IDX Rules.

If the Participant has not represented a buyer or seller in the recent 12 months, additional information will be required. CincyMLS does not wish to exclude Participants who are making good faith efforts to represent buyers and sellers within the CincyMLS market but participating in the IDX/Broker Reciprocity program is intended only for those Participants who are actively engaged in the CincyMLS market.

If a Participant has not represented a buyer or seller on CincyMLS within the recent 12 months, the Participant will be asked to supply documentation of the following:

- a. Indicate whether your firm has listed or co-listed property on CincyMLS. Identify the listing by its MLS listing number.
- b. Indicate whether your firm has closed a transaction in the CincyMLS market. Provide the listing number involved in the transaction.
- c. If the answer to 1 and 2 are “no”, provide a list of activities other than merely operating your website and that you are attempting to obtain buyer and/or seller clients. These activities could

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include advertising on various websites, on social media, or in traditional media, making direct contact with consumers, etc. Include examples that demonstrate your effort to obtain clients, d. Confirm that you are now and will, for the foreseeable future, continue to endeavor to acquire listings of properties for sale that will be submitted to MLS or to represent buyers seeking properties for sale in the CincyMLS.

Determination of eligibility will be made by CincyMLS rules staff. Decisions may be appealed to an MLS Hearing Panel. During periodic website audits conducted by CincyMLS staff, Participants that do not appear to meet the eligibility criteria will be asked to submit new documentation. IDX/Broker Reciprocity participation is for Participants actively endeavoring to provide brokerage services to buyers and sellers, not simply providing referrals to other MLS Participants or operating a website. (L)

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. (N-Amended 05/12).

Any Participant using a third-party to develop/design its website will sign an MLS approved legally binding agreement with that third-party, which permits the third-party to receive the BR raw data on behalf of the broker. (L)

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. (N-Amended 05/12).

A Participant must make changes to their website necessary to cure a violation of the MLS Rules within five (5) business days of notice from the MLS of the violation. In those cases where the Principal/Broker does not act to cure reported violations timely, MLS may seek a cure from the Principal/Broker and/or its Third-Party Vendor by way of punitive measures deemed appropriate by the Broker Reciprocity Committee or by way of legal recourse.

If a Participant suspects “data mining” or that some form of inappropriate access of the data has occurred, the suspicion and any evidence should be reported to the MLS of Greater Cincinnati immediately for investigation and action. (L)

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. (N-Amended 05/17).

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 status, geography or location (“uptown,” “downtown,” etc.), list price, type of property (e.g., condominiums, cooperative, single-family detached, multifamily), or type of listing (e.g., exclusive right-to-sell or exclusive agency). Selection of listings displayed through IDX must be independently made by each participant. (N-Amended 02/22)

If a Participant plans to display only a subset of MLS listings, the qualification(s) for the listings being displayed should be provided to the consumer. (L)

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

The date of the last update must be clearly displayed on the IDX display. (L)

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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. (N-Amended 05/12).

18.2.7 Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate (not a national company or franchise (L)) 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. (N-Amended 05/12).

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 features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Article 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 feature has been disabled at the request of the seller. (N-Adopted 05/12).

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. (N Amended 05/12).

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. (N Adopted 11/14).

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 the available listings or fewer authorized fields. (N-Adopted 05/15).

18.2.12 All listings displayed pursuant to IDX shall identify the listing firm and the email or phone number provided by the listing participant 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. * (N Amended 02/22).

18.2.13 All listings displayed pursuant to IDX shall show the MLS as the source of information. The Broker Reciprocity icon and an explanation that those properties marked with the icon are provided "Courtesy of the MLS of Greater Cincinnati" must appear on the first page where any listing data is displayed. *

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The following is recommended and preferred wording: "The data relating to real estate appearing on this site comes in part from the Broker Reciprocity program of the Multiple Listing Service of Greater Cincinnati". 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. (L) *

The detailed display shall also bear the listing firm's phone number as well as the listing agent's name and phone number immediately following the property information. (L) *

**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. (N-Amended 5/17).*

18.2.14 The MLS copyright notice shall appear immediately following the property information. The listing company name and phone number, the listing agent's name and phone number, the broker reciprocity icon, and the MLS copyright notice shall be at least as large as the largest type size used to display the listing data. This notice must appear exactly as in one of these two options:

Option A: "Copyright yyyy, MLS of Greater Cincinnati, Inc. All rights reserved." [yyyy is the current year], or

Option B: "yyyy, MLS of Greater Cincinnati, Inc. All rights reserved." [yyyy is the current year.] Note, you may not substitute a "c" in parentheses "(c)" for the copyright symbol "©." If your website cannot display the copyright symbol, you must use option A and spell out the word "Copyright." (L)

18.3 DISPLAY - The display of listing information pursuant to IDX is subject to the following rules:

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., showing instructions, and property security information, may not be displayed. (N-Amended 02/22).

a. Any display of the "body" or "data field" of another Participant's listing may not include any contact information or branding of the Participant who owns the website or any of its agents. (L)

b. Any display of the "body" or "data field" of another Participant's listing may include only the following: text data about the listing property; photo of the listing property; the logo, phone number, address, etc. of the website hosting listing broker; or for other BR listings, the BR icon, and "buttons" providing links to other information. (L)

c. The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. (N-Amended 05/12).

18.3.2 Removed 8/19/24

18.3.3 All listings displayed pursuant to IDX shall identify the listing agent. (N)

18.3.4 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.

a. The MLS Participant and their sales licensee must sign a CincyMLS Data Access Agreement whereby the Participant accepts full responsibility for the actions of their sales licensee.

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b. The sales licensee is required to complete the RAGC CE-approved course “Social Media and Internet Advertising Law” prior to IDX approval for their website.

c. The sales licensee will pay a one-time (per occurrence) administrative fee for the IDX data feed. The fee amount will be determined by the BOD.

d. Once an approved IDX data feed is established for the sales licensee, if the sales licensee later decides to switch IDX vendors, a new license agreement and fee will be required to establish a new feed.

e. Since a sales licensee’s IDX search is an extension of their broker’s obligation, a cooperative broker may not request to have their listings removed from a sales licensee’s IDX search page.

f. If a Principal/Broker Participant opts out and does not participate in the BR program, the sales licensees and non-principal appraisers of that Participant may not receive an IDX data feed and may not frame another company’s BR listing search.

g. Prior to making the site available to consumers, the vendor for the broker or the sales licensee must contact MLS to review and approve the site, per the IDX guidelines only, as outlined in the agreement. Any other issues are the responsibility of the broker and the sales licensee.

h. For those sales licensees choosing not to acquire an IDX data feed, the hyperlink to the sales licensee’s Principal/Broker’s company website must display the BR search page as it appears on the company site (same format and listing displays). The BR search page may appear without the company’s frame as long as the brokerage name (as it is registered in the MLS) appears within the frame of the sales licensee site surrounding the BR search and appears on the page, per the advertising rules of Ohio law. The name of the MLS registered sales licensee, to whom the website belongs, shall also appear on the frame as the brokerage name under the same conditions. (L)

18.3.5 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 the use of other disclaimers as necessary to protect participants and/or the MLS from liability. * (N-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. (N-Amended 05/17).*

Any result identifying another Participant’s listing shall include the disclaimer “Information Deemed Reliable but Not Guaranteed.” The following examples are acceptable alternatives:

More Explanatory: “The broker providing the data believes it to be correct but advises interested parties to confirm all information before relying on it for a purchase decision.”

Shorter Version: “Listing broker has attempted to offer accurate data, but buyers are advised to confirm all information.” (L)

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

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18.3.7 The right to display other participants’ listings pursuant to IDX shall be limited to a participant’s office(s) holding participatory rights in this MLS. (N)

18.3.8 Member Participants are permitted to co-mingle listings from IDX data feeds provided by participating MLSes with listings from other (non-MLS/IDX) data sources on their website and/or VOW. This includes displaying all relevant search results on a single search results page. All such displays must comply with the IDX rules outlined in the CincyMLS Rules and Regulations. This includes requirements to:

- Clearly display the listing broker and agent's name and contact information for each listing*;
- Identify the source of the data*;

- Ensure that listing information is accurate; and
- Correct any known errors in a timely manner.

For the purpose of this policy, "co-mingling" means that consumers can perform a single property search, with the results displaying listings from both MLS IDX and non-MLS/IDX data feeds on the same webpage or display, rather than separating listings based on their source. (Modified 11/8/24)

**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. (N-Amended 05/17).*

18.3.9 Display of expired, withdrawn, and canceled listings is prohibited. (N-Amended 11/15).

18.3.10 Display of confidential information fields intended for cooperating brokers rather than consumers, including, but not limited to, sellers' and/or occupants' name(s), phone number(s) and email address(es), showing instructions and property security information is prohibited. (N)

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

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

18.3.13 Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party. (N-Adopted 11/09).

18.3.14 A participating company, broker, agent, or appraiser may not advertise, in any form, that they have available for search or otherwise, "all MLS listings." (L)

18.4 The MLS BOD shall create a separate “governing body” that shall suggest data changes, modifications to the rules, and recommend actions regarding violations of IDX/Broker Reciprocity. (L)

18.5 FEES - Service fees and charges for participation in IDX shall be as established annually by the BOD. (L)

18.6

18.7 That participants are entitled to use, and MLSs must provide to participants, the Broker Back Office (BBO) Data, for BBO Use subject to the Terms below:

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“BBO Data” means all real property listing and roster information in the MLS database, including all listings of all participants, but excludes (i) MLS only fields (those fields only visible to MLS staff and the listing participant), and (ii) fields and content to which MLS does not have a sufficient license for use in the Brokerage Back Office Feed.

“BBO Use” means the use of BBO Data by participants and subscribers affiliated with the participant for the following purposes:

- Brokerage management systems that only expose BBO Data to participants and subscribers affiliated with a participant.
- Customer relationship management (CRM) and transaction management tools that only expose the BBO Data to the participant, subscribers affiliated with the participant, and their bona fide clients as established under state law.
- Agent and brokerage productivity and ranking tools and reports that only exposes BBO Data to participant and subscribers affiliated with the participant.
- Marketplace statistical analysis and reports in conformance with NAR MLS Policy Statement 7.80, which allows for certain public distribution.

BBO Use may only be made by the participant and subscriber affiliated with the participant, except that at the request of a participant, MLS must provide BBO Data to that participant’s designee. The designee may use the BBO Data only to facilitate the BBO Use on behalf of that participant and its affiliated subscribers.

There is no option for participants to opt-out of their listings from the Brokerage Back Office Feed Use as defined.

“Terms” mean the following:

- MLSs may impose reasonable licensing provisions and fees related to the participant’s license to use Brokerage Back Office Feed Data. MLSs may require the participant’s designee to sign the same or a separate and different license agreement from what is signed by the participant. Such provisions in a license agreement may include those typical to the MLS’s data licensing practices, such as security requirements, rights to equitable relief, and dispute resolution terms. (The foregoing examples are not a limitation on the types of provisions an MLS may have in a license agreement.)
- The use of roster information may be limited by the MLS participation agreement and license agreements.
- Brokerage Back Office Feed Use is subject to other NAR MLS policies and local rules.

MLSs, in their reasonable discretion, may expand the definition of Brokerage Back Office Feed Use in conformance with other NAR MLS policies, such as Policy Statement 7.85, which provides that “Use of listings and listing information by MLSs for purposes other than the defined purposes of MLS requires participants’ consent.” **M (NAR Statement 8.7; Adopted 2022)**

18.8 The MLS must not accept listings containing an offer of compensation in the MLS to other Participants and Subscribers. Further, the MLS may not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator’s website for such purposes) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant’s access to any MLS data and data feeds.

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The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service must not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing broker and buyer brokers). NAR PS 8.11

N – National

L – Local