

**RULES & REGULATIONS of the**  
**INDIANA REGIONAL MULTIPLE LISTING SERVICE**

Adopted March 6, 2014 –

Amended August 10, 2016; November 27, 2017;  
July 1, 2018; January 2, 2019; March 1, 2019; June 3, 2019; April 29, 2020;  
May 1, 2020; September 9, 2020; February 17, 2021; December 20, 2021  
January 25, 2022

**Section 0.1 Association.** The REALTOR® association or multiple listing service organization through which participants and subscribers receive and/or purchase IRMLS service.

**Section 0.2 IRMLS.** Means Indiana Regional MLS LLC which provides the Multiple Listing Service to participants and subscribers through Associations.

**Section 0.3 Multiple Listing Service or MLS.** A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced, by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).

**Section 0.4 Service area.** The area within which the service shall function, its "service area" shall at all times be coextensive with the States of Indiana, Illinois, Michigan, Kentucky, and Ohio.

**Listing Procedures**

**Section 1 Listing Procedures**

Listings of real property of the following types, which are listed subject to a real estate broker's license, and are located within the service area of the multiple listing service, and are taken by participants on exclusive right-to-sell listing contracts and exclusive agency listing contracts shall be delivered to the multiple listing service within three (3) calendar days (excluding holidays) with the first day starting after all necessary signatures of seller(s) have been obtained, or in accordance with Section 1.01, whichever is less:

- a. single family homes
- b. vacant lots and acreage for sale or exchange
- c. multi-family buildings for sale or exchange
- d. business/commercial/industrial buildings for sale or exchange
- e. farms/agricultural
- f. mobile homes with real estate

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

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

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

The service does not accept **net listings**. **Open listings** are not accepted.

The **exclusive right-to-sell** listing is the conventional form of listing submitted to the multiple listing service 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 exempt 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 exempt. 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 multiple listing service does not regulate the type of listings its members may take. This does not mean that the service must accept every type of listing. The service does not accept open listings (unless acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But the service leaves its members free to accept listings to be handled outside the multiple listing service.

**Note 3:** The service accepts exclusively listed property that is subject to auction.

### **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.

**Note 1:** 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 these MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS participants.

**Note 2:** Section 1.01 Clear Cooperation is only applicable to the Residential property class.

### **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:

- residential • motel-hotel
- residential income • mobile homes attached to real estate
- subdivided vacant lot • mobile home parks
- land and ranch • commercial income
- business opportunity • industrial

#### **Section 1.1.1 Listing Subject to Rules and Regulations of the Service**

Any listing taken on a contract to be filed with the multiple listing service is subject to the rules and regulations of the service upon signature of the seller(s).

#### **(New) Section 1.16 - Property Addresses**

At the time of filing a listing, participants and subscribers must include a property address available to other participants and subscribers, and if an address doesn't exist a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location. M

### **Section 1.2 Detail on Listings Filed with the Service**

A listing agreement or property data form, when filed with the multiple listing service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form.

**Section 1.2.0** Participants and subscribers are required to submit accurate listing data and required to correct any known errors.

### **Section 1.2.1 Statuses**

The following Statuses are available in the IRMLS MLS system:

**Active:** There is an active listing agreement and the property is available for sale or lease, available for showings, and available for offers. Public marketing is permitted.

**Active with Contingency (E.g., Cont-Acctng BackUp Offers, Cont-3<sup>rd</sup> Party Approval, Cont-1<sup>st</sup>ROR-Sudden Death, Cont-First Right, Cont-Other):** The seller has accepted an offer with a contingency, but will consider back-up offers. The listing is active, public marketing is permitted, and is available for showings.

**Cancelled:** The contract is void and the listings is removed from the MLS.

**Expired:** The listing agreement has expired. No public marketing is permitted.

**Listed Coming Soon:** The property has an active listing agreement and is available for sale or lease, public marketing is permitted but showings are not permitted Use of this status must comply with the requirements in Section 1.2.2.

**Leased:** The property has been leased.

**Pending:** There is a pending offer on the property. Public marketing is permitted as agreed upon by seller and listing broker.

**Sold:** The property has been sold.

**Temp Off Market:** The property is moved to an off-market status for a period of time.

**Withdrawn:** The listing has been withdrawn from the MLS prior to the expiration date, see Section 1.5 for more details. No public marketing is permitted.

### **Section 1.2.2 Listed Coming Soon**

Upon execution of a valid listing agreement and a *Listed Coming Soon Authorization Form* signed by seller, a property listing may use the "Listed Coming Soon" status, subject to these MLS rules and regulations.

- (a) *Listed Coming Soon Authorization Form* – The completed form must be submitted by the listing Participant to her/his Association.
- (b) *Data entry* – Listings in the Listed Coming Soon status must complete the Start/End Date field and the Start Showing Date field to indicate when the property will be Active and available for showings. All required fields and photos must be submitted when the listing is input into the MLS system.
- (c) *Temporary status* – The Listed Coming Soon status is a temporary status that can only be used once. A listing may use the Listed Coming Soon status for a maximum of 21 days after which the listing will automatically change to Active status. The listing broker can specify a shorter period of time (less than 21 days) for the Listed Coming Soon listing to automatically change to Active status. Additionally, the listing broker may change the listing to Active (or another status) at any time prior to the accrual of the 21 days; no other statuses can be changed to the Listed Coming Soon status. Days on market start when the listing is entered in the Listed Coming Soon status and continue to accrue when the listing goes to Active status.
- (d) *No showings or open houses* – A listing in the Listed Coming Soon status is not eligible for showings or open houses. Any showings or open houses will disqualify the listing from the status and will trigger the listing to be changed to Active status within one (1) business day. Future showings and open houses may be scheduled for the property after the Start Showing Date.
- (e) *Display in MLS system and distribution* – Listings in the Listed Coming Soon status are displayed in the MLS system and are viewable to all participants and subscribers, and are distributed to MLS advertising data feeds, including broker public advertising (IDX) and real estate listings websites (public portal sites). Listings in the Listed Coming Soon status are distributed to VOWs and may be included in other MLS software (e.g., showing services).
- (f) *Marketing* – Participants and subscribers are permitted to share the listings in the Listed Coming Soon status with their clients and customers, but must indicate the date on which the listing will be Active (i.e., Start Showing Date), and publicly market listings in the Listed Coming Soon status in accordance with these MLS rules.

### **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 Association, but not disseminated to the participants. The participant must

file the office exclusive listing with her/his Association by submission of the Office Exclusive Form, or substantially similar form that includes (i) a certification signed by the seller that she/he does not desire the listing to be disseminated by the service; (ii) that by not submitting the listing to the MLS, the listing will not be searchable in the MLS database, will not be disseminated to other IRMLS participants and subscribers; and (iii) is subject to the Clear Cooperation Policy. Association may share the completed Office Exclusive form with IRMLS.

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

#### **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 one (1) calendar day (excluding holidays) after the authorized change is received by the listing broker.

#### **Section 1.5 Withdrawal of Listing Prior to Expiration**

Listings of property may be withdrawn from the multiple listing service 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(s) can document that his exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller.

#### **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.

#### **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 multiple listing service.

#### **Section 1.9 No Control of Commission Rates or Fees Charged to Participants**

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

#### **Section 1.10 Expiration of Listings**

Listings filed with the multiple listing service will automatically be removed from the compilation of active 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 active 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.

#### **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**

Subject to each Association's mandatory listing area, only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant but cannot be required by the service.

### **Section 1.13 Listing 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, MLS participant and/or subscriber agreements, or other membership obligation 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 current listing information. Prior to any removal of a 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 Listing 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 by the expelled 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 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, an 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 an expelled participant's listings from the MLS, the expelled participant should be advised, in writing, of the intended removal so that the expelled participant may advise his clients.

### **Section 1.15 Listing of Resigned Participants**

When a participant resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned participant's listings from the MLS, the resigned participant should be advised, in writing, of the intended removal so that the resigned participant may advise his clients.

**Section 1.16 Listing Agent Must be Subscriber:** In order for a listing to be included in the MLS system, the listing agent must be a Subscriber affiliated with a Participant of the MLS who is a current member in good standing. Co-Exclusive listings with a Non-Participating office (or Non-Participating Brand Offices) of the MLS service are not accepted. A fine of \$350 will be assessed to the Participant if the co-exclusive listing is entered into the MLS system.

**Section 1.17 Documentation Upon Request:** All MLS documentation and documentation related to the listing (e.g., listing agreement, addendums, etc.) must be provided immediately upon request, but no more than 24 hours after such a request by the Association or IRMLS. The listing broker grants the MLS permission to audit listing files to determine compliance with the MLS Rules & Regulations for up to one year past the closing or expiration date of the listing. If the Participant does not comply with an audit request a fine of \$100 per day thereafter may be assessed and/or access to MLS data for that firm may be suspended until such compliance is obtained.

**Section 1.18 Use of Marketing in Remarks Field:** It is the policy of the MLS that the Listing Remarks Section in the MLS System must only be used for information that is descriptive and relevant to an accurate description of the listed property. The MLS does not permit the placement of any contact information including listing agent, broker name, phone number, company names, email addresses, web addresses, or other information of this nature that does not serve to describe the listed property is a violation. Any violation of this policy shall be considered a violation of the MLS Rules and IDX Policies.

**Section 1.19 Properties Subject to Auction.** A listing broker may submit a listing of an eligible listing type that is subject to auction. All listings subject to auction may only be entered into the Auction Class of the MLS database without exception. It must display the exact list price as it appears on the Listing Contract and the circumstances under which cooperating brokers will be compensated in the event of a successful closing. The listing record for a property subject to auction must specify the type of auction (for example, absolute, minimum bid, or reserve) and the license number of the auctioneer must be entered.

## Selling Procedures

### **Section 2 Showings and Negotiations**

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

- a. the listing broker gives the cooperating broker 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.

### **Section 2.1 Presentation of Offers**

The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.

### **Section 2.2 Submission of Written Offers**

The listing broker 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 or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations.

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, written affirmation stating that the offer has been submitted to the seller or written notification that the seller has waived the obligation to have the offer presented. (M 2019)

### **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 when 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 sales prices, shall be reported to the multiple listing service by the listing broker within two (2) calendar days (excluding holidays) 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 one (1) calendar day (excluding holidays) after occurrence and the listing broker shall report them to the MLS within two (2) calendar days (excluding holidays) after receiving notice from the cooperating broker.

**Note 1:** The listing agreement of a property filed with the MLS by the listing broker must 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 must 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:** Reporting of the sale price is required by the MLS.

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 Resolution of Contingencies**

The listing broker shall report to the multiple listing service within one (1) calendar day (excluding holidays) that a contingency on file with the multiple listing service has been fulfilled or renewed, or the agreement cancelled.

### **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 multiple listing service 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 multiple listing service refuses to accept a written offer satisfying the terms and condition stated in the listing, such fact shall be transmitted immediately to the service and to all participants.

## Prohibitions

### **Section 4 Information for Participants Only**

Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker.

#### **Section 4.1 For Sale Signs**

Only the for-sale sign of the listing broker may be placed on a property.

#### **Section 4.2 Sold Signs**

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign.

#### **Section 4.3 Solicitation of Listing Filed with the Service**

Participants shall not solicit a listing on property filed with the service unless such solicitation is consistent with Article 16 of the 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 16-4. This section is intended to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons 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, 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, Services Advertised as "Free"**

MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. M (added 11/21)

## 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 multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered 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. The compensation specified on listings filed with the listing service shall appear in one of two forms. The essential and appropriate requirement by an association multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of 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 other 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 service does not require the listing broker to disclose the amount of total negotiated commission in his listing contract, and the service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The service 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 multiple listing service participants for their services with respect to any listing by advance published notice to the service so that all participants will be advised.

**Note 3:** The service makes no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

**Note 4:** 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.

#### **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 contract, 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 a 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 one (1) calendar day (excluding holidays) 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 multiple listing service, that person shall disclose that interest when the listing is filed with the multiple listing service and such information shall be disseminated to all multiple listing service participants.

#### **Section 5.2 Participant as Purchaser**

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

#### **Section 5.3 Dual or Variable Rate Commission Arrangements**

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

#### **NEW Section 5.4 Display of Listing Broker's Offer of Compensation**

Participants and subscribers who share the listing broker's offer of compensation for an active listing must display the following disclaimer or something similar. *The listing broker's offer of compensation is made only to participants of the MLS where the listing is filed.* M (Added 11/21)

## **Service Charges**

#### **Section 6 Service Fees and Charges**

**6.1** Each Association that provides multiple listing service via IRMLS shall establish its own schedule of service fees, dues, and charges, which may include an initial participation fee(s) and recurring participation fee(s), for MLS service. Each Association shall establish the terms and conditions related to payment of fees and charges, and bill and collect payment from participants and/or subscribers directly.

**6.2** Each Association shall adopt and implement a policy that provides participants with 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. The Association may, at their discretion, require that broker participants sign a certification for nonuse of its MLS services, by their licensees, which can include penalties and termination of the waiver if violated.

**6.3** IRMLS shall establish a schedule of fees for data feeds for participant use of MLS data; such uses include IDX, VOW, firm internal, and valuation purposes. IRMLS shall collect data feed fees directly from participants, subscribers, and third-party vendors, as appropriate.

## **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, and the MLS policies of their respective Association.

IRMLS or Association 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. *(Amended 3/15)*

**Note 1:** 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 IRMLS Board of Directors or Association, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. *(Amended 03/15)*

**Note 2:** MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who as received more than three (3) administrative sanctions within a calendar year.

### **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 Section 9 shall apply.

### **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. *(Adopted 4/92)*

### **Section 8 [RESERVED]**

## Enforcement of Rules or Disputes

### **Section 9 Consideration of Alleged Violations**

The IRMLS Board of Directors or Association, as appropriate, shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, and the participant or subscriber agreement with IRMLS, the enforcement of which are at the discretion of the IRMLS Board of Directors and Association, as further described herein.

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant.

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

If the alleged offense is a violation of the rules and regulations of the service, except as described below in Section 9.2, and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Association, and if a violation is determined, the Association 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 its bylaws and rules and regulations within twenty (20) days following receipt of the directors' decision.

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

### **Section 9.2 Violations of data compliance and security policies**

If the alleged offense is a violation of the IRMLS IDX policy (see Section 18), VOW policy (see Section 19), or data security policy, and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by IRMLS in accordance with the IRMLS Data Compliance Policy, adopted by the IRMLS Board of Directors on June 22, 2016. Consistent with the Data Compliance Policy, and if a violation is determined, IRMLS may direct the imposition of sanction. Any appeal of the decision of IRMLS may be appealed to the IRMLS Board of Directors within twenty (20) days of IRMLS's decision.

### **Section 9.3 Violations of the Clear Cooperation Policy**

If the alleged offense is a violation of the Clear Cooperation Policy (see Section 1.01) and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Association where the listing participant participates, in accordance with that Association's enforcement procedures and these rules. Each Association's disciplinary measures must include, at a minimum, the following sanctions, per subscriber: first violation: written warning, second violation: \$500 fine, third violation: \$1,500 fine, for additional violations after three violations, the participant and subscriber must appear before the IRMLS Board of Directors and the IRMLS Board of Directors will consider the imposition of sanction(s) in accordance with Section 7. Determinations by the IRMLS Board of Directors are final.

Participants and subscribers may report complaints of non-compliance with IRMLS's Clear Cooperation Policy (see Section 1.01) by submitting the Clear Cooperation Policy Reporting Form to their local Association. IRMLS and the Associations will work together to consider reported, alleged violations.

### **Section 9.4 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by IRMLS to Association for appropriate action in accordance with the professional standards procedures established by the Association.

### **Section 9.5 Complaints of Unauthorized Use of Listing Content**

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to IRMLS and participant's Association executive. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to IRMLS and participant's Association executive not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.5 of the MLS rules.

Upon receiving a notice, IRMLS will send the notice to the participant who is accused of unauthorized use. IRMLS shall provide a copy of the notice to participant's Association executive and Association's director on the IRMLS Board of Directors. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to IRMLS that the use is authorized. Any proof submitted will be considered by the IRMLS Board of Directors, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

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

If after ten (10) days following transmittal of the IRMLS Board of Director's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

### **Section 9.6 MLS Rules Violations**

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

## **Confidentiality of MLS Information**

### **Section 10 Confidentiality of MLS Information**

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

### **Section 10.1 MLS not Responsible for Accuracy of Information**

The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participants. The Service does not verify the 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.

## **Ownership of MLS Compilation\* and Copyright**

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.

IRMLS maintains written participant and subscriber agreements with participants, subscribers, and users of the MLS service. At the option of each participant, the copyrights in the property listing content may be assigned to IRMLS pursuant to the participant agreement between the participant and IRMLS. In the event there is no assignment, participant licenses the property listing content to IRMLS as described in the IRMLS's participant agreement and Section 11.0. Participants' and subscribers' obligations in these MLS rules are cumulative to participant's and subscribers' obligations under their respective participant or subscriber agreement with IRMLS.

### **Section 11.0**

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

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. (M 2019)

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.

### **Section 11.1**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the IRMLS and in the copyrights therein, shall at all times remain vested in the IRMLS.

## **Section 11.2**

Each participant shall be entitled to lease from the IRMLS 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. 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.

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

## **Use of Copyrighted MLS Compilation**

### **Section 12 Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the IRMLS, 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 multiple listing service 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 or published by an association multiple listing service where access to such information is prohibited by law.

### **Section 12.1 Display**

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

### **Section 12.2 Reproduction**

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

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

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

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

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on a particular property 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 were deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. (Amended 3/15)

## **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 IRMLS from the period *(date)* through *(date)*.

**Section 13.1 Use of term "MLS" on Internet sites:** Nowhere on a web site that displays listings obtained through the MLS may there be any assertion, reference, indication or suggestion that "the MLS", "the Multiple Listing Service", "the Multiple Listing System", "Indiana Regional MLS", "IRMLS", "Regional MLS", can or is being searched or viewed.

**Section 13.2 Confidential Information: A participant shall not make available or display to prospective purchasers, buyers, or tenants any of the following:**

- (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/or occupant's name(s), phone number(s), or email addresses
- (d) Instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property

**Section 13.3** A Participant shall cause any listing that is distributed to prospective purchaser or buyers to identify the name of the listing firm in a readily visible color, in a reasonable prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

**Section 13.4** A Participant shall limit the number of listings distributed to prospective purchasers or buyer to not more than 100 current listing and not more than 50 sold, or pending ("under contract") listings in response to any inquiry.

## **Changes in Rules and Regulations**

### **Section 14 Changes in Rules and Regulations**

Amendments to these MLS rules and regulations shall be by consideration and approval of the IRMLS Board of Directors. Associations may submit requests for MLS rules and regulations changes to the IRMLS Board of Directors for their consideration.

### **Section 15 [RESERVED]**

### **Section 16 [RESERVED]**

## Orientation

### **Section 17 Orientation**

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

Participants and subscribers may be required, at the discretion of the Association, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the Association 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)**

Amended 1/4/2016 – 5/18/2016

Amended January 2018, March 2019, February 2022

### **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) M*

#### **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.

#### **Section 18.2 Participation**

Participation in IDX is available to all MLS participants who are Realtors<sup>®</sup> who are engaged in real estate brokerage and who consent to display of their listings by other participants.

Agents will follow the decision of their Managing Broker with regard to participation in IDX. Under no circumstances may an Agent operate an IDX site without the written consent of their Managing Broker. Agents operating an IDX site shall do so under the Managing Broker's consent and control.

##### **Section 18.2.1**

Participants (and Subscribers, with Participant's written consent) 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.

##### **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.

##### **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 5/17)*

#### **Section 18.2.**

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), 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. *(Amended 2/2/22) M*

**Section 18.2.5**

Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve hours. Amended 2/18/2015

**Section 18.2.6**

Except as provided in the IDX policy and these rules, and 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.

**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.

**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.

**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.

**Section 18.2.10**

A MLS Participant (or where permitted locally, a MLS subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available for him or her MLS IDX feeds provided all such displays are consistent with IDX rules, and the MLS participant (or MLS Subscriber) holds participatory rights in those MLS's. As used in this policy, "co-mingling" means that consumers are able to execute in a single property search of multiple IDX feeds, resulting in the display of IDX information from each of the MLS's on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display. M Amended 2/18/2015.

**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.

**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 medium used in the display of listing data. (Amended 2/2/2022) M

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

### **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. showing instructions and property security information,) may not be displayed. (Amended 2/2/22)

##### **Section 18.3.1.1**

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

#### **Section 18.3.3 [RESERVED]**

#### **Section 18.3.4**

All listings displayed pursuant to IDX shall identify the listing agent.

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

#### **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 18.3.6 Deleted November 2006**

#### **Section 18.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information. (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 5/17)

#### **Section 18.3.9**

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

#### **Section 18.3.10**

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.

**Section 18.3.12**

Display of expired and withdrawn listings is prohibited. Sold and Pending Listings may be displayed. (Amended 2/2/22)

**Section 18.3.13**

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

**Section 18.3.14**

Participants are required to employ appropriate security protection such as firewalls, on their websites and displays provided that any security measures required may not be greater than those employed by the MLS.

**Section 18.3.15**

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 use by consumers.

**Section 18.3.16**

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

**Section 18.4 Service Fees and Charges**

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

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

Amended Jan 2018; Jan 2019; February 2022

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

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

iii. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.

- b. The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.
- c. If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.
- d. The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
- i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
  - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
  - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
  - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
  - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database
- e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.
- f. The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

#### **Section 19.4**

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

#### **Section 19.5**

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

#### **Section 19.6**

- a. A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.
- 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 includes 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 (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

### **Section 19.7**

a. Subject to Subsection b., below, a participant's VOW may allow third-parties:

- i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

b. Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

### **Section 19.8**

A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within two (2) calendar days (excluding holidays) 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) calendar days (excluding holidays).

### **Section 19.10**

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

### **Section 19.11**

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

### **Section 19.12**

A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property. M (Amended 2/22)

**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.

**Note:** Adoption of Sections 19.15 through 19.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on participants' use of MLS listing information in providing brokerage service through all other delivery mechanisms.

**Section 19.15**

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

- a. expired and withdrawn listings
- b. the compensation offered to other MLS participants
- c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e. instructions or remarks intended for cooperating brokers only, such as those regarding 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 19.18**

A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent, and the email or phone number provided by the listing participant in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data. (Amended 2/22)

**Section 19.19**

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 500 current listings and not more than 500 sold listings or 50% of the listings in the MLS, whichever is less in response to any inquiry.

**Section 19.20**

A participant shall require that Registrants' passwords be reconfirmed or changed every 90 days.

**Section 19.21**

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

**Section 19.22**

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

**Section 19.23**

A participant shall cause any listing displayed on 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 his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within two (2) calendar days (excluding holidays).

## MLS of Elkhart County Amendment to IRMLS Rules & Regulations

Adopted March 2014, Amended Mar 2105, May 2015, Apr 2017, Mar 2018, Jul 2018, May 2019, Jul 2019, Sep 2020, July 2021, Dec 2022

### **LISTING PROCEDURES**

#### **SECTION 1 LISTING PROCEDURES**

ECMLS Participants will not be required to submit copies of every listing contract to the MLS unless the contract falls in the following categories: Late Input, Office Exclusive, Listed Coming Soon, or as part of an \*Audit. Listing contracts in these categories must be submitted to the MLS office within three (3) days of obtaining seller's signature or a Category 1 sanction will be issued. \* In the case of an audit, the Participant must submit a copy of the listing contract to the MLS office within two (2) business days. If the Listing Contract is not received within two (2) business days, the Participant may be subject to further sanctions. The listing will be reinstated upon compliance. *(Amended 9/20 – 2/21)*

#### **SECTION 1.2 DETAIL ON LISTINGS FILED WITH THE SERVICE**

A listing agreement and profile sheet, when filed with the MLS by the listing broker, shall be complete in every detail which is ascertainable as specified on the Profile Sheet. A Property Data Profile Sheet is required as approved by the MLS and the seller or Participant must certify that the information on the Profile Sheet is true and accurate to the best of their knowledge and belief. The MLS disclaims any and all liability for the publishing of any misinformation, unannounced deletions and exceptions or any errors common to the transactions and publishing of the detailed information. **A sanction will be issued in accordance with the appropriate Category.** (An incomplete listing is one in which a \*required field does not contain complete or accurate information.) **Failure to disclose Special Designations in the MLS falls under Category 3.** *(Amended 2/21)*

#### **IRMLS SECTION 1.18 USE OF MARKETING IN REMARKS FIELD (PERSONAL PROMOTION)**

Personal promotion in the MLS is not permissible which includes personal branded virtual media. Only information pertaining to the listed property will be allowed in the Marketing Remarks in the MLS. MLS staff is authorized to remove personal promotion language in violation of this rule and issue a sanction in accordance with Category 3. Exceptions include website information regarding auctions and additional documents pertaining to the listing. *(Amended 2/21)*

Note: Virtual Tours in the MLS must be unbranded. Unbranded is defined as void of any identification of the listing office, broker or agent.

#### **SECTION 1.2.B MANDATORY PHOTO**

Every listing in the MLS must have a photo. The primary photo must be uploaded when the listing is entered. Listings input in the MLS without a photo will incur a Category 1 sanction. Sanctions will be issued for photo not uploaded within one business day and may be issued daily until the photo is uploaded. A Seller request for exclusion of a listing photo must be signed by the seller and submitted to the MLS. *(Amended 2/21)*

Photos/digital images submitted to the MLS shall be limited to images of the listed property, floor plans of the listed property or renderings of the listed property. Photos/digital images shall not contain user/office contact information such as names, phone numbers, email addresses or website addresses, virtual tour links or copyrights, including use of embedded, overlaid, or digitally stamped information.

By submitting photos/digital images to the MLS, the Participant represents and warrants that he or she either owns the right to reproduce and display such photos/digital images or has procured such rights from the appropriate party, and has the authority to grant and hereby grants the MLS and the other Participants the right to reproduce and display the photos/digital images in accordance with these rules and regulations. Additionally, the Participants agree to indemnify the MLS in the event of any litigation relating to the reproduction of the photo by the MLS or other authorized entities. Use of photographic/digital media by a subsequent listing agent requires prior written authorization from the originating participant or other appropriate party with the legal right to reproduce and display such photos/digital images. *(Amended 7/12)*

#### **SECTION 1.2.D VIRTUAL MEDIA**

Virtual Media Must Be Unbranded. The MLS permits only "Unbranded" virtual tours or other virtual media to be attached to listings in the MLS System. "Unbranded" means that no aspect of the virtual media (which includes the web page on which the virtual media resides) can exhibit listing agent, office or broker name, phone number, email address, web address or other information of this nature that is not descriptive in nature and relevant to an accurate portrayal of the property being marketed.

The listing office will be given 48 hours to correct any virtual media violation after receiving notification from the MLS. Failure to make the change within 48 hours will result in the Virtual Media data being removed by MLS staff and the listing office will be accessed a sanction in accordance with Category 3. (2/21)

#### **SECTION 1.2.E PUBLIC MARKETING REMARKS**

Public Remarks should only describe the property's physical and aesthetic characteristics. No contact information is permitted, including names, phone numbers, talking ads, email or web addresses, including virtual tours and transaction tracking URLs. No showing instructions are permitted including references to lockbox, alarm, gate, or other security codes, or the occupancy of the property. No information directed toward real estate agents or brokers, including compensation or bonuses offered to cooperating brokers may be shown in public remarks.

By submitting Public Remarks to the MLS, the Participant grants the MLS and the other Participants the right to reproduce and display the remarks in accordance to these rules. Public remarks will be included in listing displays on "third-party" websites through an approved RETS feed. All listing remarks must be in compliance with State and Federal law in all matters relating to the advertisement and sale of real property.

#### **SECTION 1.2.F AGENT REMARKS**

Agent Remarks should be used for confidential communications between Participants and shall not be available to the public. Agent Remarks may include, but not limited to, additional information related to the listed property, contact information, financial information, web addresses, mortgage company names, bonuses offered to cooperating brokers, short sale compensation information etc.

#### **SECTION 1.2.2 LISTED COMING SOON**

Failure to enter a listing into the MLS with a Listed Coming Soon status within 3 calendar days from the sellers signature, failure to submit the Listed Coming Soon Authorization form to the MLS, and public advertising by any party of the Listed Coming Soon property are all considered violations of MLS rules and sanctions will be issued in accordance with the appropriate Category rules.

#### **SECTION 1.3 EXEMPT LISTINGS**

Failure to submit required Office Exclusive Form to the MLS within 3 calendar days will be considered a violation of MLS rules and sanctions will be issued in accordance with Category rules. Office Exclusive listings do not qualify for entry in the MLS in any status, including Sold.

#### **SECTION 1.20 NEW CONSTRUCTION**

New Construction without a foundation must be entered into the Lots and Land Class. New construction with a foundation may be entered into the Residential Property Class. The main photo (#1) for all New Construction properties must be the "floor plan" of the home being built. Additional photos are allowed and may include a photo or a rendering of a similar style property as long as a disclaimer is included on the photo noting this is a "similar" property. (Amended 12/22)

#### **SECTION 1.21 NEW CONSTRUCTION – Lots & Land Class to Residential Class**

A new construction property entered into Lots and Land may also be manually entered into the Residential Class using the original contract dates and completion of all requirements. Once entered, the agent must contact MLS staff to delete the original lots and land listing prior to entry into the Residential Class to confirm all the rules are followed. (Adopted 12/22)

## **SELLING PROCEDURES**

#### **SECTION 2.5.A FAILURE TO CLOSE A PENDING**

A Listing Broker that has pending listings over 365 days old in the MLS will be given 30 days to verify the accuracy of the status or to close out the listing. MLS Staff has the authority to cancel the listing if the Listing Broker fails to respond within the 30-day timeframe.

#### **SECTION 2.5.B REPORTING NON MEMBER SALES DATA**

Participants have the option of entering property data, photos and sales information for non-MLS properties sold by Participants. All non-MLS property sales information must be entered in the MLS within 7 business days after closing. Once entered, the Selling Office must notify the MLS office that a non-MLS property has been entered. MLS Staff will change the sold property information to a non-member status. Non-MLS properties entered in the MLS must comply with all listing input and closed rules.

#### **SECTION 2.6 A FIRST RIGHT OF REFUSAL**

The listing broker or its agents shall disclose to any agent requesting permission to show a property, at that time, the fact that there is a right of first refusal existing on that property.

#### **SECTION 2.9 A BACK UP OFFERS**

The listing broker, or his/her agents, who use the "Contingent Accepting Back Up Offers" sub-status in the MLS in response to inquiries from buyers or cooperating brokers, shall with the seller's approval, disclose the existence of an accepted offer. Contingent Accepting Back Up offers is a sub status of Active and will automatically expire upon its expiration date.

### **Prohibitions**

#### **SECTION 4.6 MLS DATA DISTRIBUTION LIMITS**

MLS Participants, Licensee's affiliated with a Participant and Licensed/Certified Appraisers may only provide comparable sales, listings, and/or pending information from the MLS data base which appears in the revised Appraisal report, BPO report or consultation. Release of additional data which does not appear in the report (such as added listings, grids, spreadsheets on other properties) is prohibited.

### **SERVICE CHARGE**

#### **SECTION 6 SERVICE FEES AND CHARGES**

The following service charges for operation of the multiple listing service are in effect to defray the costs of the service and are subject to change from time to time in the manner prescribed:

#### **ECMLS PRIMARY OFFICE APPLICATION FEE**

ECMLS will charge an applicant for participation in the MLS a \$1,000 application fee. The fee will accompany the application and is non-refundable. (Amended 7/18)

#### **BRANCH OFFICE APPLICATION FEE**

Applicants who apply for participation in the MLS as a branch office will be charged a \$200.00 non-refundable application fee. The applicant must be a Participant in good standing with their primary MLS and provide verification of membership and primary office location. (Amended 7/18)

#### **REOCCURRING FULL SERVICE FEE (Unit of Service)**

The Unit of service fee includes access to the MLS system, lock box service and other tools and services provided by the MLS. The Unit of service fee shall be determined by the Board of Directors at least annually and will be billed to each participant, subscriber and licensed or certified appraiser or individuals seeking access to licensure or certification as real estate appraisers, who have access to and use of the service, on a quarterly basis. Participants who are primary members of another MLS will be provided the option of a no cost waiver of MLS fees and charges for licensees or licensed or certified appraisers or individual seeking licensure or certification as real estate appraisers. Participants and any licensee who is provided a waiver will be required to sign a certification of nonuse of MLS services, which includes penalties and termination of service for violations of the waiver. MLS fees will be pro-rated based on join date for new Participants/Subscribers and licensed or certified appraisers. (Amended 7/18)

#### **REOCCURRING BASIC SERVICE FEE**

Participants, subscribers and licensed or certified appraisers who hold primary membership in another MLS are eligible for MLS Basic service which will be billed quarterly. The fee will be determined by the board of directors at least annually. The Participant will be provided the option of a no cost waiver of MLS fees, dues and charges for any licensee, or licensed or certified appraiser who can demonstrate membership in a different MLS where the Principal Broker participants. The Participant must sign a non use waiver that includes penalties and termination of the waiver, if violated. (Adopted 7/18)

#### **UNLICENSED ADMINISTRATIVE CLERICAL STAFF**

Unlicensed administrative and clerical staff employed by the Managing Broker who have access to and use of the MLS information will be charged a fee which will be billed to the Managing Broker on a quarterly basis. The fee will be determined by the Board of Directors at least annually. To qualify as Staff, the individual must be employed by the Managing Broker/Owner to provide services on behalf of the office. (Amended 2/21)

#### **PERSONAL ASSISTANTS**

Licensed Personal assistants, who have access to and use of the MLS system, will be considered MLS subscribers and will be billed for MLS service on a quarterly basis. Unlicensed Personal assistants who have access to and use of the MLS system will be charged the same fee as Unlicensed Administrative/Clerical staff. Fees for personal assistants, both licensed and unlicensed, will be determined by the Board of Directors at least annually. (Amended 2/21)

#### **MISCELLANEOUS FEE**

Miscellaneous charges, except for sanctions, will be billed to the individual Participant or subscriber at least monthly. Sanctions will be billed to the MLS subscriber, and Participant if required, at the time the violation occurred. (Amended 2/21)

#### **ECMLS PROCESSING FEE**

New and transferring Participants, subscribers, or licensed and certified appraisers will be charged a \$50 processing fee which must be paid at the time of application or prior to transfer. (Amended 2/21)

#### **PARTICIPANT REINSTATEMENT FEE**

An applicant who applies for reinstatement as a MLS Participant will be charged a \$200 reinstatement fee provided the application is received by the MLS office within six months of original inactivation. (Amended 7/18)

#### **ECMLS MEDICAL/MILITARY WAIVER OF SERVICE**

TEMPORARY LEAVE: A temporary leave status is available to MLS Participants and subscribers for medical\* or military reasons. Medical Leave Waivers may be available to members who are responsible for caring for a spouse, dependent or immediate family member. The Participant and/or subscriber requesting a waiver must complete and submit the Medical / Military Waiver Request form along with any appropriate documentation. Medical leave Waiver require a personal statement signed by the member and must include the specific length of leave time requested. Military leave requires a personal statement signed by the member with a copy of the military orders. After the Temporary Leave status is approved, payment for the MLS fees/Units of service will be suspended; the member may stay in the active status or may be inactivated upon request, either way the member may keep their Key service active. MLS processing fee will be waived upon reinstatement. The member requesting a waiver must be in good standing and hold a current REALTOR membership to request a leave status. A waiver is available for up to 90-days maximum with extensions available under certain circumstances

Note: Medical leave is defined as a medical situation lasting longer than 30 days that affects the member's ability to perform duties. When member remains active, the MLS will incur ongoing charges from the vendor.

#### **ECMLS BUSINESS COMMERCIAL INDUSTRIAL WAIVER**

Effective January 15, 2004 the Board of Directors has the authority to exempt Business/ Commercial /Industrial Participants from payment of MLS Units of Service fees for any individual employed by or affiliated as an Independent contractor but who does not have access to and/or use of the Service. The exemption requires the Participant to submit a waiver request to the Board of Directors. The exemption period shall be in effect for a renewable 12-month period.

#### **ECMLS AUCTIONEER WAIVER**

The ECMLS Board of Directors has the authority to exempt Participants from payment of MLS Units of Service fees for any individual employed by or affiliated as an Independent contractor, who holds a valid Auctioneer license, does not list or sell real estate and who does not have access to and/or use of the service.

Participants with approved waivers will not be charged the Unit of Service fee for those individuals listed in the waiver. Those individuals will have no MLS rights or privileges. The exemption for any individual shall automatically be revoked upon the individual's utilization of the MLS Service in any manner.

### **SECTION 6.1 MLS BILLING PROCEDURE:**

#### **NONPAYMENT OF MLS ACCOUNT**

Each Participant/subscriber will be billed for MLS services quarterly. The invoice is due by the 25th of the month. If said invoice is not paid in full by the 1<sup>st</sup> of the following month, MLS access will be terminated and a \$50 reinstatement fee added to their current invoice. The reinstatement fee and the quarterly fee must be paid in full prior to reinstatement of service. (Amended 4/17)

#### **MLS SUBSCRIBERS JOINING AFTER THE BILLING HAS BEEN ISSUED**

New members will be invoiced a prorated fee for the MLS "Unit of Service". Payment will be required at the time of application. (Amended 2/21)

## **SECTION 6.2 MLS UNITS OF SERVICE PAYMENT POLICY:**

### **PAYMENT FOR MLS FEES**

Participants and subscribers may pay for MLS services by cash, check, Visa, MasterCard, Discover, or American Express. (Amended 2/21)

### **HANDLING OF NSF CHECK**

A NSF fee will be charged for all checks that are returned. If more than one check is returned for insufficient funds within a 12 month period, all subsequent invoices must be paid for in cash or by certified check. (Amended 2/21)

## **MEETINGS**

### **SECTION 9 MEETINGS**

The meetings of the ECMLS Participants of the Service or the Board of Directors of the Service for transaction of business of the Service, shall be held in accordance with the provisions of Article 7, Bylaws of the Service.

## **OWNERSHIP OF MLS COMPILATION & COPYRIGHT**

### **SECTION 11.2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION**

Board 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 listings 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 Board Members and individuals affiliated with Board 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.

## **CHANGES IN RULES & REGULATIONS**

### **SECTION 15 CHANGES IN RULES & REGULATIONS**

Amendments to the ECMLS Rules and Regulations of the Service shall be by consideration and approval of the Board of Directors of the Multiple Listing Service, in accordance with the provisions of Article 10, Section B of the By-Laws of the Service, subject to the final approval by the Board of Directors of the Elkhart County Board of REALTORS<sup>®</sup> (shareholder).

## **PENALTIES & FINES FOR VIOLATION OF MLS RULES & REGULATIONS**

### **SECTION 16 PENALTIES & FINES FOR VIOLATION OF MLS RULES & REGULATIONS**

#### **Section 7 Compliance with MLS Rules:**

**Section Note 2:** MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

MLS rules are divided into 3 Rule Categories and each category includes the violations and sanctions that will be issued based on the number of sanctions previously issued in that calendar year. ECBOR increased the number of allowed administrative Sanctions in Category 1 from 3 to 5 per calendar year. ECBOR Staff will track the number of administrative sanctions issued to its members. Members who exceed the allowed number will be required to attend a hearing in accordance with the hearing process below.

MLS Staff will issue administrative Sanctions based on the Category and number of sanctions previously issued. The 1<sup>st</sup> sanction is a written warning that may include a fine if the issue is not corrected. All sanctions, including the written warning, will count toward the total number of administrative sanctions issued annually. Fines may be issued even if the Violation is corrected depending on the situation. All violations will count toward the allotted number of sanctions allowed in a calendar year.

**Category 1 Violations – 5 per calendar year – Inaccurate/Incomplete Listing Information/ Status Changes**

- 1<sup>st</sup> Violation – Staff will issue a written Warning
- 2<sup>nd</sup> Violation – Fine Amount \$25.00
- 3<sup>rd</sup> Violation – Fine Amount x 2
- 4<sup>th</sup> Violation – Fine amount x 3
- 5<sup>th</sup> Violation – Fine amount x 4
- 6<sup>th</sup> Violation – Goes to hearing

**Category 2 Violations – IDX and VOW rule violations.**

IRMLS centrally manages IDX and VOW on behalf of ECBOR. IRMLS will send any noted violations to ECBOR Staff who will be responsible for issuing the appropriate sanction/violation.

- 1<sup>st</sup> Violation – Staff will issue a written Warning
- 2<sup>nd</sup> Violation – Fine Amount - \$50.00
- 3<sup>rd</sup> Violation – Fine Amount - \$100.00
- 4<sup>th</sup> Violation – Goes to Hearing

**Category 3 Violations – MLS rules violations – mandatory submission of listings, Co-List, Disclosures, BCC et**

- 1<sup>st</sup> Violation – Staff will issue a written Warning
- 2<sup>nd</sup> Violation – Fine Amount \$100
- 3<sup>rd</sup> Violation – Fine Amount \$350
- 4<sup>th</sup> Violation – Goes to Hearing

*\*NOTE: Clear Cooperation Administrative Sanctions Section 9.3:*

- Violation #1 – Written Warning*
- Violation #2 - \$500 Fine*
- Violation #3 - \$1,500 Fine*
- Violation #4 – must appear before IRMLS Board of Directors*

**Section 9:** When requested by a complainant, the MLS will process a compliant without revealing the complainant’s identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant.

ECMLS Members may report a violation of MLS rules by submitting a “MLS Rule Violation Form”, or a substantially similar form/email that contains the same information, along with any substantiating documents or screen shots. ECMLS members who wish to remain anonymous will check the box on the reporting form or indicate the same in the email. ECBOR Staff will not reveal their identity when issuing a sanction or when submitting information to a hearing panel. \*The MLS Rule Violation form will be made available for completion online. Staff will confirm written receipt of MLS violation report. Staff will review the information to determine if the violation can be substantiated. If the violation can be confirmed, staff will issue a sanction in accordance with the appropriate Category and sanction.

Administrative Sanctions (Fines) will be invoiced by ECBOR staff and will be due in 15 days. If the fine is not paid, staff will follow the non-payment policy currently approved in the MLS rules and regulations. \*payment of reinstatement fees will apply if MLS service is inactivated for non-payment.

Staff will track all sanctions issued through the Member’s record in Magic. Members will have access to the number of sanctions issued through the Member Bill pay site.

Once a member reaches the number of allowed sanctions, Staff will notify the subscriber and the Participant of the requirement to attend a hearing. Both the Subscriber and the Participant will receive copies of all previous MLS violations and sanctions prior to the hearing.

**HEARING PANEL**

The MLS hearing panel will be comprised of 3 members of the ECBOR Board of Directors plus 1 alternate and will be appointed by the President. ECBOR Staff will provide the name of potential hearing panel members to the parties in advance to challenge for conflict.

Parties will have 48 hours to return a written challenge to ECBOR Staff or the names will be considered “unchallenged”. Should the President have a conflict of interest with any party to the hearing, the responsibility for appointing members of the panel will move to the President-elect and so on through the Executive Committee and Directors.

#### **NOTICE OF HEARING**

A Notice of Hearing will be sent to all parties that includes date of Hearing, Time, Location, Hearing Panel Members, Name of Complainant (if appealing sanction) Name of subscriber and Participant, along with all supporting documents. The Notice of Hearing will be issued at least 10 business days in advance of the hearing.

The MLS hearing panel will receive a copy of the Notice of Hearing form but copies of violations issued during the calendar year and any relevant documents will be provided at the hearing to preserve confidentiality.

Parties will be required to submit notice of evidence and or witnesses a minimum of 72 hrs prior to hearing.

#### **NON APPEARANCE**

Any failure to respond to any Hearing Notices or to attend a hearing will be considered a “non appearance” and the hearing panel will base its decision on the available information.

#### **REQUEST A CONTINUANCE OF HEARING**

The parties to the hearing may request 1 continuance of the hearing for cause that must be submitted to ECBOR Staff, in writing, at least 72 hours prior to the hearing. ECBOR staff will submit the request to the President or members of the hearing panel for consideration. All parties will be notified in writing of the panel’s decision. A new hearing date will be scheduled and all parties will be notified in writing. If the respondents (Agent & Participant) fail to appear for the 2<sup>nd</sup> scheduled hearing, the respondents will be considered a “Non appearance” and will be deemed to have waived their rights to contest the sanction administered by the hearing panel.

#### **HEARING PROCEDURES**

ECBOR Staff will record the Hearing. Any other party may record the hearing at their expense. If the complainant or respondents transcribes the recorded hearing audio, a copy must be provided to ECBOR Staff within 10 days of transcribing. Parties may request a copy of ECBOR’s recording to be provided at their own expense. The hearing panel will not be bound by the rules of evidence but shall afford all parties the right to be heard and offer evidence subject to the hearing panel’s judgement of relevance.

#### **AMENDING THE COMPLAINT**

At any time during the hearing, the complaint can be amended by ECBOR staff or by motion of the hearing panel to add previously uncited violations of the MLS Rules and Regulations. If the hearing parties concur with the amendment, the hearing may proceed uninterrupted or if challenged, may reconvene at a specific date and time not more than 30 days from the date of adjournment. If the parties knowingly waived their right to an adjournment, the record shall reflect the fact that the parties were aware of their right to adjournment but chose to proceed without interruption. If the hearing is adjourned, the complaint shall be amended in writing and signed by the Board President or AE, and promptly submitted to the parties with a Notice of Hearing.

#### **HEARING OUTCOME**

The MLS Hearing panel will submit their findings in writing to ECBOR Staff within 24 hours. ECBOR Staff will send a copy to the parties to the hearing within ten (10) days of adjourning the hearing. The MLS Panel shall issue sanctions from the Approved Sanction Schedule adopted by the Board of Directors. The subscriber and/or Participant must comply with the sanctions or they may appeal in accordance with the appeal process.

#### **HEARING APPEAL**

The hearing party may appeal a hearing panel decision based on legitimate basis within 10 days of receipt of hearing panel decision. The appeal must include a \$250.00 deposit that will be refunded should the Board of Directors find in favor of the party filing the appeal. Written requests for appeal will be reviewed by ECBOR Legal Counsel to determine if the request has merit.

#### **RECORDS**

ECBOR Staff will retain the hearing records, including audio and the disposition, for a minimum of 3 years following the issuance of the sanction. \*Recipients of an administrative sanction may request a hearing before the professional standards committee.

## HEARING PANEL – Administrative Sanctions

The following is guidance for hearing panels when issuing administrative sanctions for MLS rule violations:

- Category 1 violation means a rule violation relating to listing information provided by a participant or subscriber.
- Category 2 violation means a rule violation relating to IDX and VOW displays.
- Category 3 violation means a rule violation relating to MLS listing entry, participant cooperation, co-list, disclosures etc.

**First Category 1 violation** (or first violation within three [3] years): Possible discipline:

- Letter of warning
- Fine of \$500 or less
- Attendance at relevant education session
- Any combination of the above

**Repeat Category 1 violation** (within three [3] years): Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$1,000 or less
- Any combination of the above

**First Category 2 violation** (or first violation within three [3] years): Possible discipline:

- Letter of reprimand
- Fine of \$500 or less
- Attendance at relevant education session(s)
- Any combination of the above

**Repeat Category 2 violation** (within three [3] years):

- Attendance at relevant education session(s) or course
- Fine of \$1,000 or less
- Suspension from the MLS or from the MLS' lockbox key access for three (3) months or less
- Any combination of the above

**First Category 3 violation** (or first violation within three [3] years):

- Letter of reprimand
- Fine of \$500 or less
- Attendance at relevant education session(s)
- Suspension from MLS or from use of the MLS' lockbox key access for ninety (90) days or less
- Any combination of the above

**Repeat Category 3 violation** (within three [3] years):

- Attendance at relevant education session(s) or course
- Fine of \$1500 or less
- Suspension from MLS or from use of the MLS' lockbox key access for six (6) months or less
- Termination from MLS or from use of the MLS' lockbox key access for 1 to 3 years
- Any combination of the above

### **ADOPTION OF HEARING PANEL DOCUMENTS:**

- Notice of MLS Hearing – Appendix A
- Challenge of Hearing Panel – Appendix B
- Request for Appeal – Appendix C
- Decision of the Hearing Panel – Appendix D

**FAIR HOUSING POLICY** - MLS must implement a process for identifying potential violations of fair housing laws and work with Participants and subscribers to rectify such potential violations

MLS Staff will audit a minimum of 25% of the active listing inventory (Agent & Marketing Remarks) on a regular basis, but at least bi-weekly, to ensure compliance with Fair Housing words/phrases adopted by the Board of Directors. The Listing Agent and Participant will be notified by email to change any words or phrases that are on the Fair Housing list within 2 business days and to notify ECBOR Staff of the change.

- A standard template will be used to submit Fair Housing violation notices to members

- Fair Housing violations are considered Category 3 Violations
- The list of ECBOR approved Fair Housing Words display below

## FAIR HOUSING WORDS AND PHRASES ADOPTED BY ECBOR

### UNACCEPTABLE WORDS/PHRASES:

|   |                            |
|---|----------------------------|
| Able-bodied   | No Alcoholics              |
| Adult Living  | Only Christians Need Apply |
| Active Adult Community                              | No Unemployed              |
| Adults Only   | Not for Handicapped        |
| African   | Older Person               |
| Agile   | Only One Child             |
| Asian/ Any Reference to Nationality                 | One Person                 |
| Bachelor  | Physically Fit             |
| Black(s)  | Quiet Tenants Only         |
| Board Approval Required                             | Singles Only               |
| Catholic  | Single Person              |
| Caucasian   | Spanish Speaking           |
| Chicano   | White On                   |
| Chinese   |                            |
| Children No   |                            |
| Couple  |                            |
| Couples only  |                            |
| Crippled No   |                            |
| Deaf No   |                            |
| Drinkers no   |                            |
| Employed Must Be                                    |                            |
| Empty Nesters                                       |                            |
| Ethnic References                                   |                            |
| Exclusive Neighborhood                              |                            |
| Felons Need Not Apply                               |                            |
| Racial References                                   |                            |
| Religious References                                |                            |
| Handicapped No                                      |                            |
| Healthy Only  |                            |
| Heterosexuals Only                                  |                            |
| Impaired NO   |                            |
| Independent Living                                  |                            |
| Indian  |                            |
| Integrated  |                            |
| Jewish  |                            |
| Latino  |                            |
| Married   |                            |
| Mature Couple/Individual                            |                            |
| Mature Person(s)                                    |                            |
| Membership approval required                        |                            |
| Mentally Handicapped No                             |                            |
| Mexican-American                                    |                            |
| Mormon Temple                                       |                            |
| Mosque  |                            |
| Nationality reference                               |                            |
| Newlyweds   |                            |
| # of Children                                       |                            |
| Near or Close to Church(es)/Synagogue/Temple/Mosque |                            |
| No Gays or Lesbians                                 |                            |
| No AIDS   |                            |

## COMMON LOCK BOX SYSTEM OF THE MLS OF ELKHART COUNTY

The MLS of Elkhart County is the administrator and owner of the Lock Box System. The MLS leases the Lock Box System from an approved vendor and offers authorized person's access to electronic lock boxes, herein referred to as a lock box, and electronic devices/software to operate the lockboxes, herein referred to as Key Service. The MLS adopted NAR's lock box security requirements as outlined in the MLS Handbook along with the following local requirements:

Participation in the Key Service offered by the MLS of Elkhart County is voluntary and on an individual basis only. Key sharing is not permitted in any form except as allowed by \*NAR policy.

Sharing of a keypad or key service with a non-member or member who does not lease the Key Service is strictly prohibited and in direct violation of both local and national rules. Members may not lend or share their key with any individual or company including non-member real estate licensees or appraisers who are not members or do not lease the Key Service. Violation of the rule includes a fine not to exceed \$2500.00 and a 12 month maximum suspension of service.

*\*NAR Policy does allow a Broker/Participant to lease an extra key for use by an agent whose keypad has failed. The Participant is not allowed to give the key to agents who choose not to lease a key or to any other individual for any reason except for keypad service failure.*

### **SECTION 20 AUTHORIZED PERSONS**

Key Service is available to Participants, and their salespeople (and licensed or certified appraisers affiliated with participants) and persons who are authorized by the MLS Board of Directors, including non-member licensees who are affiliated with REALTOR® members and Affiliate members appropriately applying. No one shall be required to participate in the Key Service. (Amended 1/13)

### **SECTION 20.1 ISSUANCE PROCEDURES**

Before Key Service will be activated, the individual licensee affiliated with the Participant shall sign a written agreement with the MLS stipulating the responsibilities and liabilities of both the licensee and the Participant. Payment of an annual lease fee, maintenance fee, and administration fee is required at the time of activation. The lease and maintenance fee will be determined annually thereafter by the Board of Directors. Service is transferrable pursuant to the terms set out in the lease contract. Effective January 1, 2006, a \$50 reinstatement fee will be charged to reactivate service turned off for nonpayment of annual fee. (Amended 1/13)

Before a lock box will be issued, the Participant shall sign a written agreement with the MLS stipulating the responsibilities to maintain a record of the location of each lock box and liabilities should boxes be lost or otherwise unaccounted for. Such liability is established at current cost of lock boxes plus shipping and handling, however, the MLS reserves the right to adjust this amount in accordance with cost adjustments by the supplier. MLS Participants will receive an initial distribution of lock boxes equal to their active/pending listings MLS listings located in Elkhart County and contiguous Indiana counties for all property classes except Lots & Land plus \*15% (10 box maximum). A 2 box minimum will be in place for qualifying offices. MLS Only offices will be issued lock boxes using the same formula for listings located in Elkhart County only. Requests for additional lockboxes must be in writing and should include the serial number and location of each lock box. Additional lockboxes will be allocated based on the initial allocation formula but MLS staff reserves the right to base the allocation on available inventory. A lockbox audit will be conducted annually and in conjunction with requests for additional inventory. MLS Staff reserves the right to request the return of lock boxes not in use. Participants will be charged for lock boxes not returned within twenty days following the conclusion of an audit. Additionally, Participants may receive a \$5 per lock box fee for lock boxes not returned in clean condition and/or without the shackle code attached. (Amended 3/13)

Participants who lease Lock Boxes but who do not lease the Key Service will be billed an annual Key box lease fee. Participants who do not use the Lock Boxes or lease the Key Service will not be billed. (Amended 1/13)

### **SECTION 20.2 RECORDS**

The MLS shall maintain accurate records reflecting each Participant's lock box inventory and member's Key Service information. Following lists the minimum amount of information recorded: Date service was activated or lock box leased;

Key Service or Lock Box number, pin number/shackle code, name of member/ office, and date lock boxes were returned or service inactivated. (Amended 1/13)

**SECTION 20.3 LOSS OF KEY SERVICE:** If the Key is lost, stolen or otherwise unaccounted for, the following procedures shall be followed before new Key Service will be activated:

- a. The Key Service holder will submit to the MLS a signed, notarized statement certifying the circumstances under which the Key Service was lost or stolen and a police report filed when appropriate. The annual lease fee will be forfeited and a new Key Service fee will be charged along with a \$150.00 non-refundable Lost/Stolen fee. A new lease agreement will be signed. (Amended 1/13)

#### **SECTION 20.4 ANNUAL AUDIT**

At least annually, the MLS shall conduct an audit to verify lock box inventory and Key Service holders. If evidence arises showing any serious compromise of security or at the Board of Directors discretion, the Key Service will be changed (Amended 1/13)

#### **SECTION 20.5 UNAUTHORIZED ENTRY**

Cooperating brokers, whether functioning as agents of potential purchasers or not, must contact the listing broker to disclose their agency status and to arrange appointments to show listed property even if the property has a lock box affixed unless the listing broker has given specific permission through information published in the MLS or otherwise to show the property without first contacting the listing broker. In the event of an unauthorized entry, the listing agent may file a complaint with the MLS against the cooperating agent. The procedure is as follows: (Amended 5/19)

##### First Complaint - Warning

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 1<sup>st</sup> Offense – Letter of warning – Documentation will be placed in Agent's file.

##### Second Complaint - Fine

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 2<sup>nd</sup> Offense – Letter of warning with \$500 fine – Documentation will be placed in Agent's file.

##### Third Complaint – Fine

1. Written complaint, including report from lock box, must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 3<sup>rd</sup> Offense – Letter of warning with \$1000 fine – Documentation will be placed in Agent's file.

##### Fourth Complaint - Keypad privileges revoked

1. Written complaint, including report from lock box) must be submitted by the Listing Agent/Principal to the MLS within seven days of the unauthorized entry date in question.
2. MLS Office will send copy of complaint to Agent and Principal Broker in question.
3. Response must be in writing and will be addressed at the next scheduled Board of Directors meeting.
4. Agents & Principals may appear before the Board in person or allow the documentation to stand alone.
5. Letter stating Boards decision sent to Agent and Principal. 4<sup>th</sup> Offense – Key Service privileges revoked/fees forfeited – Documentation will be placed in Agent's file.

## **SECTION 20.6 OWNERS AUTHORIZATION**

MLS Participant and salespersons must obtain written authorization from the property owner allowing Broker to place a lock box on a property. Nothing shall prevent the owner's right to refuse to have a lock box on his/her property. (Amended 1/13)

### **SECTION 20.6.1 MANDATORY LOCKBOX**

Lock boxes may not be placed on a property without written authority from the seller. MLS requires placement of an approved lock box on listed properties if any device giving access to real estate professionals or service providers is authorized by the seller and occupant and is placed on any Residential and Multi Family property listing submitted to the Elkhart County MLS. Failure to comply with this rule will result in a \$25.00 fine. Said fine will reoccur monthly without pro-ration until the lock box is properly placed on the property. (Amended 6/13)

## **SECTION 20.7 AUTHORIZED USE OF KEY SERVICE**

MLS Participants, and their salespersons (and licensed or certified appraisers affiliated with Participants) are authorized to participate in the Key Service offered by the MLS of Elkhart County, Inc upon payment of fees and signing of Key Service Lease Agreement.

## **SECTION 20.8 UNAUTHORIZED USE OF KEY SERVICE**

Members who voluntarily participate in the Key Service may not lend or transfer the Keypad/Service to any person or entity, or permit any person or entity, licensed or unlicensed, to use their Keypad/Service for any purpose whatsoever, except as provided by NAR policy. Complaints alleging unauthorized entry or Key Service sharing must be in writing, signed by the complainant, and filed with the MLS within seven days of the alleged violation. The complaint must state the nature of the violation, include the name of the alleged violator, the date and location of the violation, and contain supporting documentation (if any). The MLS President, or President-Elect in lieu of the President, will conduct a review to determine the merits of the complaint. (Amended 1/13)

### **Complaint Process:**

1. Upon receipt of a complaint, MLS staff will forward a copy to MLS President, or President-Elect in lieu of the MLS President, to determine if the complaint has merit. The President will return a written assessment to the MLS staff within ten (10) days after receiving the complaint.
2. MLS Staff will forward a copy of the assessment to the Complainant. If the complaint is found to have merit the Respondent will receive a copy of the assessment and the complaint along with a request for response.
3. The Respondent will have ten (10) days after receiving the complaint to return a written response to the MLS office. Failure to respond within the ten (10) day timeframe can result in inactivation of the Respondent's Key Service pending Board review.
4. The MLS President or President Elect will present the complaint to a panel of 3 to 5 Board members appointed by the President immediately following the conclusion of the next scheduled Board meeting or a meeting called specifically for the purpose of considering the complaint. The Board members will make their decision based on the information submitted.
5. In the event the Respondent is found in violation, the Board may take the following action:
  - a. Issue a letter of warning
  - b. Issue a fine not to exceed \$2,500
  - c. Suspend Key Service privileges for a period of time to be determined by the Board but not to exceed 12 months
  - d. Any combination of the above 3 actions
6. The MLS Board of Directors reserves the right to forward any complaint to a Professional Standards Hearing panel which will also serve as an appeal body should the decision of the Board be appealed by the Respondent. All appeals must be in writing and submitted within 20 days of receipt of the decision.