

TERMS AND CONDITIONS FOR ELKHART COUNTY MLS MEMBERSHIP

By signature below, I attest that my firm complies with the definition of Participation and that becoming and remaining a Participant with the MLS, I agree to abide by the MLS Rules and Regulations and other policies that may be established, and amended from time to time, by the ECBOR and MLS Board of Directors, IAR and NAR. *Complete Rules and Regulations are available on www.ecbor.com.*

1. **ARTICLE 4. – PARTICIPATION:** Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service “membership” or “participation” unless they hold a current, valid real estate broker’s license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.** Use of information developed by or published by a Board 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 by or published by a Board Multiple Listing Service where access to such information is prohibited by law. (Amended 11/08)

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm 'offers or accepts cooperation and compensation' means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. “Actively” means on a continual and on-going basis during the operation of the Participant's real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. (Adopted 1/09)

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a Virtual Office Website (“VOW”) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant “actively endeavors during the operation of its real estate business” to “offer or accept cooperation and compensation” only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 1/09)

2. I agree not to use the MLS data for any purpose other than to market property or support market valuations/appraisals as specifically set forth in the MLS rules.
3. I agree not to reproduce/download any portion of the active listing except as provided in the MLS rules.
4. I agree not to allow anyone other than authorized participants, their agents and Clerical Users as defined in the MLS rules, to access any computer receiving MLS information. I agree not to transmit the information to any Participants, Agents and Clerical Users not authorized to access the system by the rules. I agree not to use the MLS to create another product except as may be used by the Participant or Agent who downloaded the data in compliance with the MLS rules.
5. I agree I will not give or sell my password to any person nor make it available to any person. I agree I will not allow agents or Clerical Staff who may have access to the MLS to give or sell their passwords to any persons.
6. I understand that the clerical users I have registered may be authorized to have limited access to the MLS for clerical support only. I understand that clerical users are not allowed to use the information in any way other than to provide such information to me. Persons performing any activities that require a real estate license are not eligible for this clerical user classification. I further understand that any violation by a clerical user employed by me, under contract with me or used by me, is my responsibility and can result in discipline to me and ultimate termination of MLS services to me.

7. The security of many homeowners in the area depends on the security of the lockbox system. I will not lend or make available my Lockbox Key to any person, even an authorized MLS user. I will not allow my agents or Clerical Staff to lend their Lockbox key to any person, even an authorized MLS user. I further understand that the MLS can incur costs in securing the system if I fail to make adequate measures to protect my key, and lockbox (es) and that I agree to be responsible for incurred costs.
8. I understand and agree that the above statements are in addition to the MLS rules, to which I have also agreed. Violation of any MLS rule may result in discipline, fine and ultimate termination of service. In addition to that, my actions may cause damage to the Association, which owns the MLS, and the Association may pursue legal remedies against me to recover such damages.
9. I understand that when agents change or leave this office, the Participant must notify the MLS, in writing within 48 hours, before MLS Service will be terminated. I further understand no MLS fees will be refunded.
10. I understand that the MLS may require that I attend an orientation class within sixty (60) days after my access to the MLS has been granted.
11. I understand that MLS fees are non-refundable. In the event I, or any agent in my office, fail to maintain eligibility for membership for MLS services for a reason under the Bylaws or MLS Rules, including but not limited to discipline by ECBOR and/or Elkhart County MLS, I understand dues and fees will not be refunded. I agree to pay fees as determined for the use, and fines for the misuse, of the MLS service, including but not limited to reinstatement fees and/or late fees incurred on delinquent accounts.
12. I authorize ECBOR and/or its MLS or its representatives to verify any information in this application including contacting any Association/MLS, the DRE, current or past broker or business associates. I further authorize any Board/Association/MLS in which I have been a member or MLS Participant or Subscriber to release all membership and disciplinary records to the Elkhart County MLS to which I am applying. I further authorize ECBOR and/or Elkhart County MLS to use this information in determining future disciplinary sanctions. I waive any cause of action including, but not limited to, slander, libel or defamation of character resulting from such verification, evaluation or other processing of this application or use of the information gathered by ECBOR, Elkhart County MLS, NAR, IAR, their agents, employees, committees or members.
13. As a Participant, you agree for yourself and the corporation or firm for which you act as a partner, officer, principal or branch office manager to binding arbitration of disputes with (1) other Participants or (2) any other MLS Participant of another Board/Association MLS which shares a common database with the Elkhart County MLS through a Shared Service or Reciprocal Agreement. Any arbitration under this agreement shall be conducted using the Board/Association rules and procedures for arbitration.
14. I agree to pay all costs incurred in the name of the MLS Participant named (if other than the owner). Every MLS Participant, agent, or licensed assistant who advertises, solicits, or offers to list, trade, host an open house, or sell any real estate in any manner is considered actively engaged in the real estate business and will be billed for a Unit of Service.
15. By Signature below, I authorize the MLS of Elkhart County, Inc. to fax any material advertising the commercial availability or quality of any property, goods, services deemed appropriate by the MLS of Elkhart County, Inc. to the fax number listed in this application.

I agree to the above Terms and conditions for Elkhart County MLS Membership and that the information given in this application is true and correct:

Applicant Signature _____ Date _____

Signature of MLS Participant (Broker) _____ Date _____

Return Application to:

ELKHART COUNTY MLS
57225 Alpha Drive
Goshen IN 46528

(574) 875-3283 Fax (574) 875-7174

For Office Use Only: App Received: _____ Conf Letter: _____ Office ID: _____ User Name: _____ Password: _____ NRDS #: _____ Date Activated: _____ Date Approved: _____ Office Orientation: _____ Approval Letter: _____
