

E.U.P. Board of REALTORS®
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MLS PARTICIPATION AGREEMENT

(Please Print Clearly-Except where asked for Signature)

Print Full Name: _____
(Applicant)

Agency Name: _____
(as listed with the State)

Agency NRDS Number: _____

Agency Address: _____

Phone: _____ FAX: _____

Email Address: _____

Primary Board of Association: _____

NRDS Number: _____ State License Number _____

DESIGNATED REALTOR OF AGENCY _____

I have received, read and agree as a condition of participation in the MLS to abide by all relevant Bylaws, Rules and Regulations and other obligations of participation including payment of fees. I further agree to be bound by the Code of Ethics on the same terms and conditions as Board/Association members including the obligation to submit to ethics hearings and the duty to arbitrate contractual disputes with other REALTORS® in accordance with the established procedures of the Board/Association. I understand that a violation of the Code of Ethics may result in termination of any MLS privileges and that I may be assessed an administrative processing fee which may be in addition to any discipline, including fines, that may be imposed.

Signature (Applicant)

Date

Article XVIII - Multiple Listing

Multiple Listing Service Operated as a Committee of the Board

Section 1. Authority. The Board of REALTORS® shall maintain for the use of its Members a Multiple Listing Service which shall be subject to the Bylaws of the Board of REALTORS® and such rules and regulations as may be hereinafter adopted.

Section 2. Purpose: 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 nonagency 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 a procuring cause of the sale (or lease). (Amended 11/04)

Section 3. Participation. Any REALTOR® Member of this or any other Board who is a principal, partner, or corporate officer, or branch manager acting on behalf of the 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 ¹offer 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 ongoing 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 11/08)

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 in a nondiscriminatory manner to all participants and

¹ Was changed from "...are capable of offering and accepting cooperation and..." per NAR

potential participants. (Adopted 11/08)

*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 within thirty (30) days after access has been provided. ²The agent must sign a document that MLS training has been completed and submit it to the Board office. If the training is not provided at the agency office, the Board office must be notified and training will be provided by the Board office.

³*NOTE: Boards are not required to establish prerequisites for MLS participation beyond holding REALTOR® (principal) membership in a Board. However, if the Board wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established.*

***Generally, Boards of Realtors®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS "Participant". If each principal is defined as a "Participant", then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered "Participants" in the Service, but have access to and use of the Service through the principal(s) with whom they are affiliated.*

⁴(SECTION REMOVED FROM 2007 BYLAWS. Note: it was removed from the NAR model as well) Section 4. Supervision. The activity shall be operated under the supervision of the Multiple Listing Committee, in accordance with the rules and regulations, subject to approval of the Board of Directors of the Board of REALTORS®.

Section 5. Appointment of Committee. The President shall appoint, subject to the confirmation of the Board of Directors, a Multiple Listing Committee of REALTORS® members. All members of the Committee shall be Participants in Multiple Listing except, at the option of the local Board, REALTORS® affiliated with Participants may be appointed to serve in such numbers as determined by the local Board. The Committee members so named shall serve two-year staggered terms.* The Committee shall select its Chairperson from among the members thereof. (The Chairperson may be designated by the President.)

*Boards have the option to establish a longer or shorter term for service on the Committee and need not provide for staggered terms for Committee appointments.

Section 6. Vacancies. Vacancies in unexpired terms shall be filled as in the case of original appointees.

Section 7. Attendance. Any Committee member who fails to attend three (3) consecutive regular or special meetings of the Committee, without excuse acceptable to the Chairperson of the Committee, shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

² This was added by the Bylaw Committee.

³ This NOTE and ** was added by NAR and the Bylaw Committee added it to the EUP bylaws also

⁴ *The Membership Committee may consider the following when determining a nonmember applicant's qualifications for MLS participation or membership:*

1. *All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years.*

2. *Pending ethics complaints (or hearings)*

3. *Unsatisfied discipline pending*

4. *Pending arbitration requests (or hearings)*

5. *Unpaid arbitration awards or unpaid financial obligations to any other Association or Association MLS*

Section 8. Access to Comparable and Statistical Information. Board Members ⁵of this or any other Board of Realtors® or individuals as determined by the Eastern Upper Peninsula Board of REALTORS®, who are actively engaged in real estate brokerage, management, mortgage, financing, appraising and development of building, but who do not participate in the MLS ⁶may receive by purchase or lease, information other than current listing information that is generated wholly or in part by the MLS including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of 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 specified in the MLS Rules and Regulations. Any person who receives such information, either as a Board service or through the Board’s MLS, are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the NLS or not

Section 9. Subscribers.

Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. ⁷Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant's licensed designee. Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant’s licensed designee.

⁵ Add by the Bylaw Committee

⁶ Changed from “...are none the less entitled to...”

⁷ Added by the Bylaw Committee as an option offered by NAR