

**Sussex County Association of REALTORS® (SCAOR)
Multiple Listing Service Application**

Check the type of membership for which you are applying:

- REALTOR® Application - Primary Participant/Subscriber of SCAOR MLS
- MLS Only Application - (Member of another local Association-only subscribing to MLS)
- Admin. Personnel () works for Participant (60 access) **OR** () works for Subscriber as assistant (45 access)
(\$50 Annual Clerical fee for each new clerical personnel.)

General Information

First Name: _____ Middle Initial: _____ Last Name: _____

Delaware Real Estate License #: R _____ Appraisal License #: X _____

*E-Mail Address: _____ *Cell Phone #: _____
*REQUIRED

Name of Company: _____ Address: _____

Company Phone: _____ Office ID _____

1. Has your MLS Membership in any other real estate board/Association been suspended or terminated?

Yes No **If yes, please attach an explanation**

2. Are you a member of another REALTOR® Board/Association? Yes No
Name of Primary Board/Association: _____

I agree as a condition of membership: to complete **an Orientation Class online** given by SCAOR within 30 Days, thoroughly familiarize myself with SCAOR's MLS Policies, and SCAOR'S MLS Compliance Guidelines and Fee Schedule. I agree that I have read the definition of MLS Participation and understand that under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a valid real estate broker's license and offer or accept cooperation and compensation made by listing brokers or agent in the MLS." I further agree that my act of paying MLS fees shall be evidence of my initial and continuing commitment to abide by MLS Policies. Finally, I consent and authorize SCAOR, through its MLS Committee or the Board of Directors appointee, to invite and receive information and comment about me from any Participant, Subscriber or other person, and I agree that any information and comment furnished to SCAOR shall be conclusively deemed to be privileged and not form the basis of any action by me for slander, libel or defamation of character.

Applicant Signature: _____ **Date:** _____

AGENT ACCESS LEVEL TO BE COMPLETED BY BROKER:

- Search Listings ONLY (30 level) Admin Access (waiver on file) (45 or 60 level)
- Search & Input/Update Listings (45 level) Participant Access (60 level)

Participant Signature: _____ **Date:** _____

Sussex County Association of REALTORS[®], Inc.

MLS Participation Agreement

This MLS Participation Agreement (“Agreement”) is made as of the Effective Date below between Sussex County Association of REALTORS[®], Inc. (“SCAOR”) Multiple Listings Service (“MLS”) and the undersigned participant (“Participant”), who, intending to be legally bound, hereby agree as follows.

1. Definitions and usage.

(a) Definitions.

“**MLS Affiliates**” means SCAOR and its officers, directors, employees, agents, representatives, licensors and shareholders.

“**MLS Database**” means all data available to Participant on the MLS System, including the Participant Contribution and all other text, binary, and photographic image data, in any form now known or hereafter discovered.

“**MLS Policies**” means SCAOR’s bylaws, rules and regulations, and policies and procedures adopted by SCAOR’s board of directors or authorized delegates, as SCAOR amends them from time to time.

“**MLS Service**” means the services SCAOR provides to Participant under this Agreement and similar services SCAOR provides to third parties under similar agreements, including any access or license to the MLS Software, the MLS Database, and the MLS System.

“**MLS Software**” means SCAOR’s proprietary web browser interface(s) to the MLS System.

“**MLS System**” means the aggregate of all hardware and telecommunications systems that SCAOR maintains (or that SCAOR’s contractors maintain on its behalf) in order to make access to the MLS Database available to Participant.

“**Subscribers**” means Participant’s employees, contractors, salespeople, and assistants (whether licensed or unlicensed as real estate agents or appraisers).

“**Participant Contribution**” means all data that the Subscribers submit, contribute, or input in the MLS System, including text, binary, and photographic image data, in any form now known or hereafter discovered.

“**Saved Information**” means information that Subscribers store in the MLS System for their own later use that is not intended by them to be available to SCAOR’s other customers, including client prospect and contact information.

(b) **Usage.** The following usages apply to any interpretation or construction of this Agreement, unless the context clearly indicates otherwise.

- (i) Wherever the term “including” is used, it means “including, but not limited to,” unless the context clearly indicates otherwise.
- (ii) The singular and plural numbers and masculine, feminine, and neuter genders of words are fully interchangeable.
- (iii) Wherever the term “law” is used, it means all statutes, regulations, and case law, both state and federal, as they are amended. Without limiting the generality of the foregoing, “law” expressly includes all state and federal fair housing statutes and regulations.

2. SCAOR’s obligations.

Subject to the terms and conditions of this Agreement and the MLS Policies, SCAOR shall provide one unique user ID, SafeMLS Token and password to each of the Subscribers that is authorized to obtain access to the MLS service by virtue of this Agreement or another license agreement; and Participant shall have all rights and obligations of a Participant in MLS as set forth in the MLS Policies. The user ID, SafeMLS Token and password will provide Participant access to all data and functions in the MLS Service to which Participant is entitled under the MLS Policies. SCAOR makes no warranties, however, that the MLS Service will be available at all times.

3. Participant acknowledgments.

(a) **Modifications to service.** SCAOR may, but is not required to, modify the MLS Service, including removing information and making additional information available, and adding and removing system functions. Certain products and services made available in conjunction with the MLS Service may be subject to agreements other than this Agreement and may require payment of additional fees.

(b) **Editorial control.** SCAOR is not required to, and assumes no responsibility to, review, edit, or exercise editorial control over the MLS Database or the Participant Contribution; use of either is subject to the exclusions of warranties and limitations of liabilities set forth in this Agreement. The foregoing notwithstanding, SCAOR may take any steps necessary in its judgment, including deleting the Participant Contribution or portions thereof, to avoid or remedy any violation of law, breach of the MLS Policies, or infringement of intellectual property right.

(c) **Conditions of service.** Participant must at all times during the term of this Agreement satisfy the prerequisites for participation in the MLS Service. The prerequisites are set out in the MLS Policies; at present, they include a requirement that Participant either (i) hold a real estate broker’s license, be actively engaged in real estate brokerage, and be capable of offering and receiving offers of compensation from other brokerage firms; or (ii) be licensed or certified by an appropriate regulatory agency to engage in the appraisal of real property. Participant must maintain active membership in a REALTOR® association at all times during the term of this Agreement. Subscribers may enter and retrieve active listing information on the MLS Service only if Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed in the SCAOR MLS.

(d) **Saved Information.** Saved Information may not always be available to Participant and may become available to unauthorized persons. SCAOR is not liable for unauthorized access to or loss of Saved Information.

(e) **Disclosure to third parties.** SCAOR reserves the right to distribute to third parties certain information about Participant, including Participant’s name and business address, phone number and email address. SCAOR reserves the right to distribute to third parties aggregated information about SCAOR customers’ use of the MLS Service, but not about Participant’s use specifically.

(f) **Disclosure to government.** Participant acknowledges that SCAOR may provide government agencies access to the MLS Service at any time in SCAOR's sole discretion.

(g) **Priority of agreements.** Participant must enter into this Agreement before any other Subscriber may obtain access to the MLS Service. Subscriptions of other Subscribers are dependent on this Agreement; any termination or suspension of this Agreement will result in termination or suspension of dependent Subscriber agreements.

(h) **If Participant is an appraiser or appraisal firm,** Participant acknowledges that certain information in the MLS Database, including information about listings currently for sale, may be withheld from Participant pursuant to the MLS Policies.

(i) **IDX data access subject to separate agreement.** Participant acknowledges that access to SCAOR's IDX database and data feeds can occur only subject to a separate written agreement between SCAOR and Participant.

4. Participant's obligations.

(a) **Use limited.** Participant shall use the MLS Service solely for the purpose of selling, listing, leasing, and appraising real estate. Except as expressly provided in this Agreement and the MLS Policies, Participant shall not copy, create derivative works of, distribute, perform, or display the MLS Service or any part of it.

(b) **Confidentiality.** Participant shall maintain the confidentiality of its user ID, SafeMLS Token and password; Participant shall not provide its ID, SafeMLS Token and password to any other Subscriber or to any third party. Participant shall ensure that the Subscribers maintain the confidentiality of their user ID's, SafeMLS Tokens and passwords and that no one but authorized Subscribers obtains access to the MLS Service or any part of it. To maintain the confidentiality of all user IDs, SafeMLS Tokens and passwords, the MLS Database, and the MLS System, Participant shall take the greater of reasonable care or the care it takes to protect its own confidential information. Failure to comply with this provision will result in a significant fine, as set forth in the MLS Policies. Participant may disclose information confidential under this Agreement if, and to the extent, the order of a court or other tribunal with jurisdiction requires disclosure; provided however, Participant first gives reasonable notice to SCAOR to permit SCAOR to seek a protective order.

(c) **Equipment.** Participant shall acquire and maintain all personal computers, modems, telecommunications connections, and computer software, other than the MLS Software, necessary for Participant's use of the MLS Service.

(d) **Participant Contribution.** When making a Participant Contribution to the MLS Service, Participant warrants that the information submitted complies with the MLS Policies in all respects, including with regard to (i) required data fields; (ii) format of submission; (iii) permitted and required listing types; and (iv) procedures for submission. Participant warrants that the Participant Contribution does not infringe or violate any patents, copyrights, trademarks, trade secrets or other proprietary rights of any third party; and that there is no claim, litigation or proceeding pending or threatened with respect to the Participant Contribution.

(e) **Affiliate agreements.** Participant shall ensure that each real estate and appraisal licensee affiliated with Participant, and each non-licensee affiliated with Participant who will have access to the MLS System or MLS Database, enters into a subscriber agreement with SCAOR. Participant is liable for all fees due under each subscriber agreement.

(f) **Affiliate supervision.** Participant shall ensure that all Subscribers comply at all times with the MLS Policies and with applicable laws. Participant is liable for any Subscriber's breach of any agreement between the Subscriber and SCAOR relating to the MLS Service or violation of any of the MLS Policies as if Participant it/him/herself had committed it.

(g) **List of affiliates.** Participant shall ensure SCAOR has a current list of all of Subscribers; Participant shall inform SCAOR in writing of any change in the Subscribers within 7 calendar days of the change.

(h) **Accurate information.** Participant warrants that the Subscribers have used and will use reasonable care to ascertain the accuracy of the Participant Contribution and its compliance with all laws. Participant shall ensure that any changes to the Participant Contribution are made on the MLS System within 48 hours or within such other time as SCAOR shall provide in the MLS Policies. Pursuant to the MLS Policies, Participant shall provide to SCAOR all documentation SCAOR requests of Participant to ascertain Participant's compliance with this Agreement.

5. Intellectual property.

Election regarding copyrights in Participant Contributions. Participant must elect from the following options. If no election is indicated, or if both options are checked, Participant will not be allowed to participate in MLS.

OPTION I

(a) **Assignment from Participant.** Participant hereby assigns to MLS all right, title and interest, including all rights under U.S. and international copyright law, in the Participant Contribution; Participant warrants that it has the authority to make this assignment. Participant acknowledges that once it has made the election agreeing to this section, all copyrights in all portions of the Participant Contribution, whether submitted prior to or after executing this Agreement, shall irrevocably vest in MLS.

(b) **MLS Obligations.** MLS hereby grants to Participant a non-exclusive, perpetual, world-wide, transferable, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform, and license (including sublicenses through multiple tiers) the Participant Contribution and those portions of the MLS Database relating to Participant's listings. MLS shall secure the rights of Participant hereunder by obtaining assignments and licenses from Subscribers as necessary. MLS shall make quarterly registrations of the copyrights in the MLS Database, including the Participant Contribution; MLS shall employ reasonable efforts to detect and hinder third parties using the Participant Contribution without Participant's permission.

OPTION II

(a) **License from Participant.** Participant hereby grants to MLS a non-exclusive, perpetual, world-wide, transferable, royalty-free, license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Participant Contribution. Participant warrants that it has the authority to grant this license.

(b) **MLS has no obligations to protect.** Participant acknowledges that: (i) MLS makes no grant of license or assignment to Participant of any rights in the MLS Database except as set forth in subsection (c); (ii) MLS will make no effort to register the copyrights in the Participant Contribution, and Participant will be responsible for all costs and efforts associated with registration; (iii) timely copyright registration is a prerequisite to suing a copyright infringer, and is necessary in order to obtain certain remedies available under the U.S. Copyright Act; (iv) MLS will employ no efforts whatsoever to detect or hinder third parties using the Participant Contribution without Participant's permission; (v) MLS will make no effort to secure for Participant the right to use copyright works created by Subscribers or third parties.

(c) **Other licenses.** SCAOR hereby grants Participant a personal, non-exclusive, non-transferable, and royalty-free license during the term of this Agreement to use the MLS Software and the MLS Database (excluding the Participant Contribution) (collectively, the "Licensed Materials"), only to the extent expressly permitted by this Agreement and the MLS Policies and only to deliver real estate brokerage or appraisal services to Participant's bona fide customers. All uses of the Licensed Materials not expressly authorized in this Agreement and the MLS Policies are prohibited. Title to the Licensed Materials remains at all times in SCAOR and shall not pass to Participant.

(d) **Further Participant warranty.** Participant warrants that (i) the Participant Contribution does not infringe on the copyright or other intellectual property rights of any third party; and (ii) Participant has the written consent of any party necessary to provide the Participant Contribution to SCAOR.

(e) **Limitations on use by SCAOR.** SCAOR agrees during the term of this Agreement not to license or distribute the Participant Contribution to any third party that is not a real estate brokerage or appraisal subscriber to the MLS Service if Participant has indicated in writing its desire to withhold the Participant Contribution from such third party.

6. Fees and payment terms.

(a) **Applicable fees.** Participant shall pay the fees set forth in SCAOR's official Schedule of Fees the current version of which is set forth in Exhibit A.

(b) **Payment terms.** SCAOR invoices for fees yearly in advance. Fees are due and payable within thirty (30) days of the date of the invoice and shall bear a late charge of the greater 1.5% times the amount past due or twenty-five dollars (\$25), whichever is greater, on any amounts past due, for each thirty (30) days past due.

(c) **No refunds.** SCAOR need not refund or pro-rate fees in the event of termination or suspension of this Agreement unless the MLS Policies provide otherwise. Initiation fees, if any, are not refundable.

(d) **Taxes.** All fees for the MLS Service are exclusive of federal, state, municipal or other governmental excise, sales, value-added, use, personal property and occupational taxes, excises, withholding obligations and other levies now in force or enacted in the future and, accordingly, Participant shall pay all such taxes and levies other than any tax or levy on the net income of SCAOR.

(e) **Fee increases.** SCAOR may amend the Schedule of Fees at any time at its sole discretion. SCAOR shall provide written notice to Participant at least thirty days in advance of the effective date of any fee increase. If Participant objects to the increase, Participant may terminate this Agreement by written notice to SCAOR at any time before the effective date of the increase.

(f) **Fines.** SCAOR may collect fines from Participant for violation of the MLS Policies by Participant and Subscribers. Payment terms for fines are set out in the MLS Policies. SCAOR may amend its schedule of fines and terms for collecting them at its sole discretion at any time.

7. Term and termination.

(a) **Term.** This Agreement shall commence upon the Effective Date set forth below and shall continue thereafter on a month-to-month basis until terminated.

(b) **Termination for breach.** Either party may terminate this Agreement in the event that the other party has not performed any material obligation or has otherwise breached any material term of this Agreement. Any such termination shall become effective upon the expiration of three days after written notice thereof if the breach or nonperformance has not then been remedied.

(c) **Termination for breach of MLS Policies.** Subsection (b) notwithstanding, SCAOR may terminate this Agreement if Participant fails to comply with the MLS Policies; if Participant violates or is alleged to have violated the MLS Policies, this Agreement shall not be terminated in accordance with the terms of this section until any hearing or appeal rights of Participant have expired as provided in the MLS Policies. If in SCAOR's judgment, however, a violation or alleged violation of the MLS Policies is resulting in a continuing harm to SCAOR or its other customers, SCAOR may suspend Participant's access to the MLS Database during the pendency of any hearing or appeal.

(d) **Termination for failure to pay.** In the event Participant fails to pay any fees required under this Agreement, SCAOR may terminate service without being subject to arbitration, and SCAOR may bring any claims for fees to small claims court. In its sole discretion, SCAOR may suspend its performance under this Agreement rather than terminating it, in the event that Participant fails to pay fees required under this Agreement.

(e) **Termination without breach.** Either party may terminate this Agreement with or without cause, upon thirty days' written notice to the other.

(f) **Events upon termination.** Promptly upon any termination or expiration of this Agreement, (i) SCAOR shall deactivate Participant's user ID, SafeMLS Token and password, and Participant shall have no further access to the MLS Service; (ii) Participant shall purge all copies of the MLS Software and the MLS Database (except the Participant Contribution) from Participant's personal computers; and (iii) all licenses granted hereunder, except the license to the Participant Contribution in Section 5 (b), if any, shall immediately terminate.

(g) **Affect on Subscribers.** Upon termination of this Agreement the license and access agreements of all other Subscribers shall also immediately terminate.

8. Disclaimer, limitation of liability, and indemnification.

(a) **DISCLAIMER OF WARRANTIES.** SCAOR PROVIDES THE MLS SERVICE AND ALL COMPONENTS OF IT ON AN "AS IS," "AS AVAILABLE" BASIS. USE OF THE MLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE MLS SERVICE ARE AT THE SOLE RISK OF PARTICIPANT. THE MLS AFFILIATES DO NOT WARRANT THAT THE MLS SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND THE MLS AFFILIATES MAKE NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY, OR RELIABILITY OF ANY INFORMATION AVAILABLE THROUGH THE MLS SERVICE. THE MLS AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES WITH RESPECT TO THE MLS SERVICE AND THE INFORMATION AVAILABLE THROUGH THE MLS SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The MLS Service may contain hyperlinks to web sites operated by parties other than SCAOR; SCAOR does not control such web sites, is not responsible for their contents, does not endorse the sites or contents, and may have no relationship with the sites' operators.

(b) **LIMITATIONS AND EXCLUSIONS OF LIABILITY.** NONE OF THE MLS AFFILIATES SHALL BE LIABLE TO PARTICIPANT OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE MLS SERVICE, INCLUDING RELIANCE BY ANY SUBSCRIBER ON ANY INFORMATION OBTAINED THROUGH USE OF THE MLS SERVICE; MISTAKES, OMISSIONS, DELETIONS OR DELAYS IN TRANSMISSION OF SUCH INFORMATION; INTERRUPTIONS IN TELECOMMUNICATIONS CONNECTIONS TO THE MLS SERVICE; AND VIRUSES OR FAILURES OF PERFORMANCE; WHETHER CAUSED IN WHOLE OR PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OF, DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE MLS SERVICE AND RELATED INFORMATION, RECORDS AND PROGRAMS.

(c) **MAXIMUM AGGREGATE LIABILITY.** IN NO EVENT SHALL THE LIABILITY OF THE MLS AFFILIATES ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT PAID BY PARTICIPANT HEREUNDER IN THE 12 MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM.

(d) **Indemnification.** Participant shall defend, indemnify and hold the MLS Affiliates harmless from and against any and all liability, damages, loss or expense (including reasonable fees of attorneys and other professionals) in any claim, demand, action or proceeding initiated by any third-party against the MLS Affiliates arising from any acts of Subscribers relating to SCAOR or this Agreement, including (i) putting inaccurate information into the MLS Service; (ii) making unauthorized use of Subscriber's User ID, SafeMLS Token and password; (iii) making unauthorized use of the MLS Database; (iv) infringing any proprietary or

contract right of any third party; (v) breaching any warranty under this Agreement; and (vi) violating this or any other Agreement or any law.

(e) **Acknowledgment.** Participant acknowledges that SCAOR has set its fees and other charges in reliance on the disclaimers of warranty and limitations and exclusions of liability set forth in this Agreement and that the same form an essential basis of the bargain between the parties.

9. Disputes and remedies.

(a) **Injunctive relief.** Participant acknowledges and agrees that the MLS Software and MLS Database are confidential and proprietary products of SCAOR and that in the event there is an unauthorized disclosure of them by Participant, no remedy at law will be adequate. Participant therefore agrees that in the event of such unauthorized disclosure of MLS Software or MLS Database, SCAOR may obtain injunctive relief or other equitable remedies against Participant in addition to all available remedies at law, without any showing of actual damages or posting any bond or security of any kind.

(b) **Dispute resolution.** In the event SCAOR claims that Participant has violated the MLS Policies, SCAOR may, at its option, resolve such a claim according to the disciplinary procedures set out in the MLS Policies, provided MLS does not also base a claim that Participant has breached this Agreement on the same facts. Except as provided in this paragraph and in Section 7 (d), any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules, including the Expedited Procedures where applicable, the Optional Procedures for Large Complex Commercial Disputes where applicable, and the Optional Rules for Emergency Measures of Protection (collectively, the “Arbitration Rules”). Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties. Unless all parties to the dispute agree otherwise, any arbitration hearing or proceeding hereunder shall be held in Sussex County, Delaware, except that it may be held by telephone where the Arbitration Rules expressly so permit. Participant agrees to submit any disputes or claims under this Agreement not subject to arbitration to the jurisdiction and venue of the state and federal courts sitting in Sussex County, Delaware.

(c) **Liquidated damages.** Participant acknowledges that damages suffered by SCAOR from access to the MLS Service by an unauthorized third party as a result of disclosure of Participant's password or an unauthorized disclosure by Participant of the MLS Database to a third party would be speculative and difficult to quantify. Accordingly, as a material inducement to SCAOR to enter into this Agreement with Participant, Participant agrees that (i) in the event that any disclosure of Participant's User ID, SafeMLS Token and password results in access to the MLS Service by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Participant shall be liable to SCAOR for liquidated damages in the amount of \$1,000 (or the amount established in the MLS Policies, whichever is greater) and termination of this Agreement; and (ii) in the event that Participant makes unauthorized disclosure of any portion of the MLS Database to any third party, Participant shall be liable for liquidated damages in the amount of \$1,000 (or the amount established in the MLS Policies, whichever is greater) for each real estate listing disclosed and termination of this Agreement.

(d) **Legal fees.** In the event of legal action or arbitration between SCAOR and Participant, or SCAOR and any Subscriber, on account of or in respect to this Agreement, the prevailing party in such action or arbitration shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in such action or arbitration. If SCAOR is the prevailing party in an action against a Subscriber, Participant shall be obligated to pay these costs on the Subscriber's behalf.

10. Miscellaneous.

(a) **No third-party beneficiaries.** This Agreement is entered into solely between, and may be enforced only by, SCAOR and Participant, and this Agreement shall not create or be construed to create any rights in any home owner, home seller, home purchaser, board or association, or other third party.

(b) **Interpretation and amendment.** Participant expressly consents to the execution of amendments by electronic means (such as web site “click through” agreements). SCAOR may amend this agreement by providing 30 days’ advance notice of the amendment to Participant. If Participant or any Subscriber continues to use the MLS Service or MLS Database after the expiration of the 30-day notice period, Participant will be deemed to have agreed to the terms as amended. Except as provided in this paragraph, this Agreement may not be amended except by written instrument executed by both parties.

(c) **Assignment.** Neither this Agreement nor any obligations or duties hereunder may be assigned or delegated by Participant. Any purported assignment in contravention of this section is null and void. Participation in SCAOR is granted to the individual/Realtor® principal of Participant’s firm and is not subject to assignment upon change of ownership of Participant’s firm.

(d) **Integration and severability.** This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements on the subject hereof. Each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect. The foregoing notwithstanding, if any provision of Section 8 is declared invalid or unenforceable by any court of competent jurisdiction, this Agreement and Participant’s access to the MLS Service shall immediately terminate.

(e) **Governing law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contacts made and performed in Delaware, without regard to its conflicts of law and choice of law provisions.

(f) **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and delivered via (i) U.S. Mail, postage paid and return receipt requested; (ii) express mailing service with confirmation of receipt; (iii) facsimile transmission, provided sender obtains confirmation of transmission; or (iv) electronic mail, provided sender requests a return receipt. All notices are effective on the date of receipt or three days after transmission, whichever is earlier.

Having read this Agreement, the parties express their will to be bound by its terms by setting their signatures below.

Sussex County Association of REALTORS® , Inc.

Participant

Signature

Signature of Participant

Print name

Print name of Participant

Effective Date

Participant Firm Name

Participant Business Address

I am participating in SCAOR as a:

- REAL ESTATE BROKER**
- REAL ESTATE APPRAISER**

Sussex County Association of REALTORS® MLS
SENTRILOCK SMART CARD
ADMINISTRATOR'S USER AGREEMENT

IT IS HEREBY AGREED BETWEEN THE Sussex County Association of REALTORS®(MLS),
AND **MLS PARTICIPANT** (known as 'Authorized User') _____
(Name of MLS Participating **Broker** and Company)

AND **MLS PARTICIPANT'S ADMINISTRATOR** ('Authorized User' or 'Administrator') _____
(Name of **Administrator**)

- 1. SMART CARD RECEIPT:** Participant and Administrator acknowledge receipt of a SentiLock Smart Card from the MLS.
- 2. TITLE TO SMART CARD:** Participant and Administrator acknowledge that the Smart Card shall be the sole property of SentiLock and shall be returned as required by SentiLock or the MLS.
- 3. CARD EXCHANGE BY SENTRILOCK OR MLS:** SentiLock may at its discretion require the MLS to replace the Smart Cards used by the MLS and its Authorized Users with replacement Smart Cards compatible with the system. SentiLock shall make the exchange of Smart Cards at no cost to the MLS unless the exchange is necessary due to Customer negligence.
- 4. CURRENT UPDATE:** Administrator acknowledges that the Smart Card has an update and that this code expires at regular intervals determined by the MLS, prohibiting further use of the Smart Card until a new update is obtained from the MLS by placing the Smart Card in an MLS Card Reader or by another authorized method.
- 5. TERM OF AGREEMENT:** The term of this Agreement begins on the date of the execution of this Agreement and ends on the earlier of (1) the date the Authorized User terminates Membership with the MLS and/ or returns the Smart Card to the MLS, or (2) termination of the SentiLock Agreement.
- 6. USE OF SMART CARD:** Authorized Users shall use the Smart Card solely in connection with Authorized User's business purposes. Authorized User shall not sell, assign, distribute, provide access to, reverse engineer, decompile, modify, tamper with, disclose, or otherwise transfer the SentiLock System or any portion of the element thereof, including the Smart Card. Authorized User acknowledges that any tampering or attempted modification of the Smart Card or data contained therein will result in permanent deactivation of the Smart Card. The use of the Smart Card shall be subject at all times to the Rules and Regulations of the SCAOR MLS.
- 7. RETURN OF SMART CARD:** Participant and Administrator agree to return the Smart Card within the earlier of (1) 48 hours of receipt of a request to do so by the MLS or SentiLock or (2) within five working days after occurrence of any of the following events:
 - a. Termination of a Participant as a Participant in the MLS.
 - b. Termination of Administrator's association with the said Participant for any reason.
 - c. Failure of the Participant/Administrator to perform in accordance with any and/or all terms and conditions herein set forth, including, but not limited to, the provisions for security in paragraph 8 below.
 - d. In the event of the death of the Participant/Administrator, heirs or personal representatives will surrender the Smart Card to MLS.
- 8. SECURITY OF SMART CARDS:** Participant and Administrator acknowledge that it is necessary to maintain security of the Smart Card to prevent its use by unauthorized persons. Consequently, Authorized User agrees:
 - a. To keep the Smart Card in Administrator's possession or in a safe place at all times.
 - b. To not allow his/her personal identification number (PIN) to be attached to the Smart Card or disclose to any third party his/her personal identification number (PIN).
 - c. **TO NOT LOAN THE SMART CARD TO ANY PERSON FOR ANY PURPOSE WHATSOEVER OR TO PERMIT THE SMART CARD TO BE USED FOR ANY PURPOSE BY ANY OTHER PERSON.**
 - d. To not duplicate the Smart Card or allow any person to do so.
 - e. To not assign, transfer or pledge the rights of the Smart Card.
 - f. To notify the MLS within three days of the loss or theft of a Smart Card. The Participant/Administrator shall sign and deliver a statement to the MLS with respect to the circumstances surrounding the loss or theft. MLS shall charge for the replacement of Smart Cards either lost or damaged.
 - g. To follow all additional security procedures as specified by the MLS.
- 9. REPLACEMENT SMART CARDS:** Replacement Smart Cards will be issued to Administrators who:
 - a. have complied with this Agreement and the policies and procedures of the MLS with respect to the SentiLock System.
 - b. pay a fee and/or deposit specified by the MLS to replace a Smart Card lost, stolen, damaged or defective.
- 10. DISCIPLINARY ACTION:** Participant and Administrator agree to be subject to the disciplinary rules and procedures of the (MLS) Professional Standards Committee for violation of any provision of this Agreement and/or the MLS Lock Box and Key Procedures. Discipline may include but is not limited to forfeiture of the Smart Card and the Participant or Administrator's right to be issued a Smart Card.

- 11. INDEMNIFICATION:** Participant and Administrator agree to indemnify and hold the MLS and all of its respective officers, directors and employees, and its MLS Committee harmless from any and all loss, cost, expense, claims or demands whatsoever by or against the MLS resulting from loss, use or misuse of the SentiLock System, including, but not limited to, any and all liabilities, including attorney's fees, incurred by them as a result of damage or injuries to property or persons arising out of entry by any person into any premises by use of the SentiLock System.
- 12. REIMBURSEMENT:** Participant and Administrator agree that, in the event that the MLS shall prevail in any legal action brought by or against the Participant/Administrator to enforce the terms of this Agreement, the Participant/Administrator as appropriate may be assessed a reasonable amount of attorney's fees in addition to any other relief to which the Court rules the MLS may be entitled.
- 13. GOVERNING LAW:** The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of Delaware, and venue shall be the county in which the Participant and/or Administrator reside.
- 14. PARTIAL INVALIDITY:** If any provision of this contract is held by any court to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force.
- 15. PARTICIPANT'S RESPONSIBILITIES:**
- a. Participant warrants that Participant is both a licensed real estate broker and Participant of the Sussex County Association of Realtors® MLS.
 - b. Participant warrants that Administrator is in fact associated with Participant.
 - c. Participant agrees to enforce the terms of the Agreement with respect to any Administrator associated with him/her and understands that he/she must exert reasonable efforts to compel Administrators compliance with this agreement..
 - d. Participant agrees to notify the MLS immediately, in writing, should the Participant or Administrator terminate their relationship.
 - e. Participant agrees to take all responsible means to obtain Administrator's Smart Card or cause Administrator to return Smart Card to MLS.
The Participant will continue to be charged a service fee for the disassociated subscriber until the card is returned. If an Administrator does not return the Smart Card, Participant agrees to furnish the MLS with copies of written correspondence of all attempts to obtain said Smart Card.
 - f. Participant agrees that he/she is jointly and severally liable, together with the Administrator, for all duties, responsibilities and undertakings of the Administrator under this Agreement and understands that failure to follow the provisions of the SentiLock Smart Card User Agreement may result in the loss of MLS Smart Card privileges and, further, could cause the MLS to recall all Smart Cards issued to the Participant and the Participant's Administrators.

16. DISCLAIMER OF WARRANTIES BY SCAOR:

SCAOR assigns to Authorized User all warranties under the SentiLock Agreement to the extent permitted under the SentiLock Agreement. SCAOR makes no representations or warranties either express or implied concerning information, services, or goods provided by or through SCAOR, including but not limited to lockbox goods and services. SCAOR excludes all warranties of merchantability and fitness for a particular purpose. For purposes of the following statements, references to the seller shall mean SCAOR, and references to the contract shall mean this Agreement: The seller undertakes no responsibility for the quality of the goods except as otherwise provided in this contract. The seller assumes no responsibility that the goods will be fit for any particular purpose for which you maybe buying these goods, except as otherwise noted in the contract.

17. MISCELLANEOUS:

This written contract expresses the entire agreement between Participant, Administrator, and the MLS with respect to the SentiLock Smart Card. This Agreement supersedes any and all other agreements, either oral or in writing. No other agreement, statement or promise relating to the subject matter of the Agreement which is not contained herein shall be valid or binding. This Agreement is binding upon the heirs and personal representatives of the Participant or Administrator. This Agreement may be executed in multiple counterparts, each of which shall be deemed as the original.

SIGNATURES:

Participant Signature:	Administrator Signature:
PRINT NAME:	PRINT NAME:
DATE:	DATE:

**SCAOR Lock Box Program
Sussex County MLS Participant Agreement**

This SCAOR Lock Box Program Agreement (the “**Agreement**”) is entered into on the effective date set forth below between Sussex County Association of REALTORS[®], Inc. (“**MLS**”) and its broker participant named below (“**Participant**”).

RECITALS

1. Participant wishes to implement a standard means of controlling access to its real estate listings for marketing purposes.
2. MLS provides an electronic lockbox system (“**Lockbox System**”) for use by its participants and desires to engage in marketing practices to distinguish its participating firms that have adopted the Lockbox System as standard tools for their firms.
3. Participant wishes to be distinguished as a brokerage firm that requires its licensees to use the Lockbox System in marketing and promotional materials that MLS produces.

AGREEMENT

In consideration of the foregoing and the mutual covenants contained in this Agreement, the parties agree as follows:

1. This Agreement shall begin on the effective date and continue until the December 31 after the first anniversary of this Agreement. It shall automatically renew for successive one-year periods each January 1, provided neither party has given at least 90 days’ notice of its intent to terminate before the automatic renewal.
2. MLS shall identify Participant on MLS’s web-site as a SCAOR Lock Box participant. Participant shall be identified among other SCAOR Lock Box Program participants in a list presented in alphabetical order by brokerage firm name.
3. MLS shall create marketing and promotional materials and cause them to be distributed via the media selected by MLS’s board of directors promoting SCAOR Lock Box Program and directing consumers to the MLS website to find the identities of SCAOR Lock Box Program participants. MLS has budgeted \$ 2,000.00 for promotion in the first year of SCAOR Lock Box Program. Promotional budgets in the second and subsequent years of the program shall be established in the sole discretion of the board of directors of MLS.
4. Participant shall require all real estate licensees associated with it to possess Smart Cards for access to the SCAOR Lockbox System.
5. Participant shall require that each active real estate listing taken by it will have an electronic lockbox supplied by MLS on it, provided the property’s seller has consented to the presence of the lockbox.

6. Participant and its licensees shall comply at all times with the security measures set out in MLS's rules and regulations and in the subscriber agreement for the Lockbox System.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this effective date.

Effective date: _____

SUSSEX COUNTY ASSOCIATION OF REALTORS[®], INC. ("MLS")

Signature

PARTICIPANT

Signature

Firm name: _____

By: _____

Its _____

2017 MLS Fees for MLS ONLY Subscribers**If a member of another Board in DE**

MONTH	APP. FEE	MLS FEES	SentriLock FEES	TOTAL
May	\$200.00	\$248.33	\$150.00	\$598.33
June	\$200.00	\$214.17	\$150.00	\$564.17
July	\$200.00	\$180.00	\$150.00	\$530.00
August	\$200.00	\$150.00	\$137.50	\$487.50
September	\$200.00	\$120.00	\$125.00	\$445.00
October	\$200.00	\$90.00	\$112.50	\$402.50
November	\$200.00	\$60.00	\$100.00	\$360.00
December	\$200.00	\$30.00	\$87.50	\$317.50

SUSSEX COUNTY ASSOCIATION OF REALTORS®

23407 Park Avenue - Georgetown, DE 19947

(302) 855-2300 - Fax (302) 855 2319

Credit Card Authorization Form

All information will remain confidential.

Cardholder Name: _____

Billing Address: _____

Credit Card Type: _____ Visa _____ MasterCard _____ Discover

Credit Card Number: _____

Expiration Date: _____

Card Identification Number (last 3 digits located on the back of the credit card): _____

Amount to Charge: \$ _____ (USD)

I authorize Sussex County Association of REALTORS® to charge the agreed amount as stated above to my credit card provided herein. I agree that I will pay for this purchase in accordance with the issuing bank cardholder agreement.

Cardholder – Print Name, Sign and Date Below:

Name: _____

Signed: _____

Dated: _____



<http://www.scaor.com>
"The Voice for Real Estate® in Southern Delaware"

