

ACTIVEKEY™ LEASE AND USAGE AGREEMENT

In consideration of the mutual agreements and promises contained herein, the party signing below agrees that:

The South Central Wisconsin SCWMLS Corporation (SCWMLS), a Wisconsin corporation and a wholly owned subsidiary of the REALTORS® Association of South Central Wisconsin (Association) hereby **LEASES** to the Keyholder named below and licenses the use thereof, of an electronic device called a ActiveKEY™ along with its personal identification number (PIN). The receipt of the ActiveKEY™ is hereby acknowledged by the Keyholder along with this license for its use to access a KeyBox system produced by GE Security, Inc. (System). The Keyholder further acknowledges that the KeyBoxes are owned by the SCWMLS.

- (1) **LICENSE TO USE:** The SCWMLS hereby grants to the Keyholder a revocable license to use the ActiveKEY™ in connection with the Keyholder's normal and customary activities as a licensed real estate agent, licensed or certified appraiser, and/or registered Home Inspector, on the terms and conditions set forth below.
- (2) **ELIGIBILITY:**
 - (a.1) All Association/SCWMLS member **Designated Participants** (also referred to herein as **Brokers**), their **sales associates or licensed or certified appraisers**; OR the brokers, sales associates, or licensed or certified appraisers of a member firm of any other REALTOR® Association participating in the SCWMLS under a wide area marketing agreement or similar type agreement, are eligible to participate in the System. **(OR)**
 - (a.2) All **State of Wisconsin registered Home Inspectors** who are **State Affiliate** members or are **Local Affiliate** members associated with a State Affiliate member of the Association or any other REALTOR® Board/Association are eligible to participate in the System.
 - (b) To continue eligibility to use the System, all access fees must be paid when due and the Keyholder **MUST** keep the Association/SCWMLS informed of the current company/office affiliation.
 - (c) Any sales associate, licensed or certified appraiser or registered Home Inspector **NOT** currently affiliated with an eligible Association/SCWMLS Designated Participant or firm will not be permitted to continue access to the System, even if said Keyholder was previously affiliated with an eligible Designated Participant or firm, has leased an ActiveKEY™, or has paid the access fee. When any Keyholder again becomes affiliated with an eligible Designated Participant or firm, system access will be reinstated from that time forward subject to payment of any access fee for the then current service period.
 - (d) The Association/SCWMLS shall refuse to lease ActiveKEYs™, shall terminate existing ActiveKEY™ privileges and shall refuse to activate any ActiveKEY™ held by an individual convicted of a crime if the crime, in the determination of the Board of Directors and after consultation with legal counsel, relates to damage or loss of property or puts clients, customers or other real estate professionals at risk.
- (3) **TERM:** The term shall be for one (1) year. The annual renewal date is **June 1**. Unless previously revoked, as described, the term of this Agreement shall be automatically renewed for one (1) year upon payment of the annual access fee and compliance with all other provisions of this agreement.
- (4) **PURPOSE: A Keyholder shall use the ActiveKEY™ only for the purpose of gaining authorized entry into real property on which a System KeyBox has been installed.**
- (5) **REVOCATION OF SERVICE:** Use of the ActiveKEY™ shall be revoked forthwith by deactivating the ActiveKEY™ upon the happening of any one of the following events:
 - (a) Termination of eligibility as defined in paragraph (2) above.
 - (b) Failure of Keyholder to perform in accordance with any or all of the terms and conditions set forth in this agreement, including, but not limited to, the provisions for security set forth in paragraphs 6, 7, 10, 12 and 13 below.
 - (c) Failure to pay the yearly access fee as provided in paragraph 11.
- (6) **SECURITY:** For the security of the System and of property owners, Keyholder agrees to keep the ActiveKEY™ in his/her possession or in a safe place at all times. Keyholder shall be accountable to the SCWMLS at all times for the ActiveKEY™ and agrees to:
 - (a) **Never allow the Keyholder's personal identification number (PIN) to be attached to the ActiveKEY™.**
 - (c) **Never to disclose to any third party the Keyholder's personal identification number (PIN).**
 - (d) **Never loan the ActiveKEY™ to any person, for any purpose whatsoever, or to permit the ActiveKEY™ to be used for any purpose by any other person.**
 - (e) **Not to assign, transfer or pledge this ActiveKEY™ Agreement.**
 - (f) **To immediately notify the SCWMLS by telephone or in writing, of the loss or theft of a ActiveKEY™ and the circumstances surrounding such loss or theft.**
 - (g) **To follow all additional rules and regulations as specified in this Agreement or as adopted by Association/SCWMLS** from time to time with respect to the ActiveKEY™ or any other aspect of the System.
- (7) **AUDIT/INSPECTION OF ACTIVEKEY™:** Upon receipt of written notice, Keyholder shall immediately submit the ActiveKEY™ for inspection at the SCWMLS office at a time designated by the SCWMLS. The ActiveKEY™ shall be deemed lost if a Keyholder refuses or is unable to demonstrate that the ActiveKEY™ is within the Keyholder's physical control. Those ActiveKEYs™ considered by the Association/SCWMLS, at its discretion, to be lost will be deactivated immediately.
- (8) **INDEMNITY:** Keyholder shall indemnify Association/SCWMLS against, and hold Association/SCWMLS harmless from, any and all actions, suits, costs, expenses, damages and liabilities, including attorney's fees, arising out of, connected with, or resulting from the use of the ActiveKEY™, including, without limitation, the delivery, possession, use or loss by anyone other than the Association/SCWMLS or costs incurred in the recovery of the ActiveKEY™.

Keyholder agrees to waive any claim against the Association/SCWMLS for investigation and decision regarding the rules of this ActiveKEY™ Agreement and authorizes anyone to provide information to the Association/SCWMLS in regards to such investigation.

(9) **REIMBURSEMENT:** Keyholder agrees to reimburse the Association/SCWMLS for any and all expenses incurred in attempting to enforce any or all terms and conditions herein against Keyholder as a result of Keyholder's failure to act in accordance with this Agreement. In the event the Association/SCWMLS commence legal proceedings against Keyholder to enforce or interpret any of the provisions of this Agreement, Keyholder agrees to pay all costs incurred together with reasonable attorney's fees as determined by the court both at trial and on any appeal.

(10) **KEYHOLDER RESPONSIBILITY:** Each Keyholder agrees:

- (a) To **NEVER permit any other person to use the ActiveKEY™ for any reason.**
- (b) To attend an instructional meeting on the operation and use of the ActiveKEY™ as required by the Association/SCWMLS.
- (c) To pay the annual access fee when due.
- (d) To immediately (within 48 hours) notify the Association/SCWMLS of any change in company/office affiliation or termination.
- (e) **To comply with the National Association of REALTORS® requirements for use of a KeyBox System including advance notification of each listing office or listing agent of the Keyholder's intention to enter the property through the use of the KeyBox. This notification is to be PRIOR to the actual entry.**

(11) **ACCESS FEES:** A yearly access fee shall be due from the Keyholder. Invoices will be sent to each Keyholder's office and a notice will appear in the Association/SCWMLS newsletter and on the SCWMLS website. It is the Keyholder's responsibility to obtain such invoice and make timely payment. Access fees must be paid PRIOR to the beginning of each service period. Failure to pay the access fee when due will result in interruption/termination of access. Payments received after the due date will reactivate authorization back to the beginning of the then current service period. There shall be no refunds for partial service periods for those who terminate participation. For new Keyholders beginning during a service period, the fee will be prorated in quarterly increments for the then current service period.

(12) **FAILURE TO COMPLY:** Any failure to comply with any of the terms of this agreement shall constitute an event of material default hereunder. In the event of such default, Association/SCWMLS has the right to immediately interrupt/terminate access to the System without any liability for hardship to the Keyholder.

(13) **VIOLATIONS:** Keyholders allowing the use of a ActiveKEY™ by unauthorized persons or otherwise violating these rules or abusing the System's security will be subject to loss of access to the System, fines, or both, as determined by Association/SCWMLS Rules and Regulations.

(14) **WARRANTY:** **Neither the SCWMLS nor the Association offers any warranty regarding the use or operation of the ActiveKEY™, or any KeyBox. GE Security, Inc. does provide a basic warranty for the ActiveKEY™. This warranty does not extend to any damage caused by accident, abuse, neglect or misuse of the equipment. Said warranty expires at the termination of the Master Agreement between GE Security, Inc. and the SCWMLS.** Warranty claims shall be handed through the SCWMLS, which should be contacted in the event a problem with the equipment is experienced.

(15) **LOST OR STOLEN ACTIVEKEYS™:** Lost or stolen ActiveKEYs™ **MUST be reported immediately to the SCWMLS.** These ActiveKEYs™ must be deactivated immediately. The current replacement cost for an ActiveKEY is \$249.00 + tax and shipping, if applicable.

(16) **RETURN OF EQUIPMENT:** In the event the Keyholder no longer meets the eligibility requirements as set forth herein and as may be amended by the SCWMLS from time-to-time, Keyholder agrees to promptly return the ActiveKEY™ to the SCWMLS office. **A deposit refund of \$50 will be given to the Keyholder for the return of his/her valid, operating ActiveKEY™.**

(17) **LIQUIDATED DAMAGES:** **In the event that Keyholder fails to return the ActiveKEY™ upon the termination of this lease or at the expiration of the lease term, Keyholder agrees to pay the SCWMLS as liquidated damages the sum of \$350.00.** Keyholder acknowledges that it is impractical and difficult to assess actual damages in the event the ActiveKEY™ are not returned, and therefore Keyholder agrees that these liquidated damages are a fair and reasonable calculation of actual damages.

Have you been convicted of a crime within the last 5 years? Yes No

If Yes, ActiveKEY will be given only upon approval of application by the SCWMLS Board of Directors.

I have read this agreement, and as a Keyholder I understand and agree to comply with its terms and conditions.

Dated: _____

Keyholder Signature _____

Keyholder Name (*Printed*) _____

Company Name: _____

For Staff Use Only: *Broker Addendum*

Key Serial # _____

Agent Code # _____