

# MULTIPLE LISTING SERVICE RULES AND REGULATIONS

Adopted May 21, 2007

**Section 1.** Authority. The Association 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 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 data bases; 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).

**SECTION 3. PARTICIPATION.** 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 brokers license and are capable of offering and accepting 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 an Association Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensor(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 4. SUPERVISION.** The activity shall be operated under the supervision of the Multiple Listing Committee in accordance with the Rules and Regulations, subject to the approval of Highland Lakes Association of REALTORS® Board of Directors.

**SECTION 5. APPOINTMENT OF COMMITTEE.** The President shall appoint, subject to confirmation by the Board of Directors, a Multiple Listing Committee with a minimum of five (5) and not to exceed seven (7) REALTOR® Members. All members of the Committee shall be Participants in Multiple Listing except, at the option of the local Association, REALTORS® affiliated with Participants may be

appointed to serve in such numbers as determined by the local Association. The Committee Members so named shall serve two-year staggered terms. Chairperson shall be designated by the President.

**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) regular or special meetings of the Committee, without excuse acceptable to the Chairperson of the Committee, shall be removed, and the vacancy shall be filled as herein provided for original appointees.

**SECTION 8. SUBSCRIBERS:** Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with participants. (*Optional provision:* 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.) (*Adopted 4/92*)

### **Section 1—Listing Procedures**

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, located within the territorial jurisdiction of the Association of REALTORS® taken by Participants on an exclusive right to sell or exclusive agency listing form shall be entered in the Multiple Listing Service within 48 hours after all necessary signatures of seller(s) have been obtained:

- (a) Single family homes for sale or exchange
- (b) Two-family, three-family, and four-family residential buildings for sale or exchange
- (c) Farms, ranches, and acreage for sale or exchange
- (d) Residential Lots
- (e) Commercial, Industrial

**Note 1:** The Multiple Listing Service shall 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:

1. May reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants
2. 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 Multiple Listing Service shall accept exclusive right to sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation to the other

Participants of the Multiple Listing Service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the Multiple Listing Service.

The different types of listing agreements include:

- (a) exclusive right to sell
- (b) exclusive agency
- (c) open
- (d) net

The Service may not accept **net listings** because they are deemed unethical and, in most states, illegal. **Open listings** are not accepted except where required by law because the inherent nature of an open listing is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation.

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 exempted should be clearly distinguished by a simple designation such as a code or symbol from exclusive right to sell listings with no named prospects exempted, 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 exempted. 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:** A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

**Note 3:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings.

**Section 1.1—Listings 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).

**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 1.3—Exempted 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 Service but not disseminated to the Participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the Service.

**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 forty eight (48) hours (excepting weekends, holidays, and postal 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. Listing in any pending sale status may not be withdrawn.

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 by 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 non-participants.

**Section 1.10—Expiration, Extension, and Renewal of Listings:** Any listing filed with the Multiple Listing Service automatically expires on the dates specified in the agreement, unless renewed by the listing broker and notice of renewal or extension is filed with the Service prior to expiration.

If notice of renewal or extension is dated after the expiration date of the original listing, then a new listing must be secured for the listing to be filed with the Service. It should then be published as a new listing. Any extension or renewal of a listing must be signed by the seller(s) and be 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—Jurisdiction:** Only listings of the designated types of property located within the jurisdiction of the Board of REALTORS® are required to be submitted to the Service. Listings of property located outside the Board's jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required by the Service.

**Section 1.13—Listings 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, Board bylaws, MLS bylaws, MLS rules and regulations, 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 Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board 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—Listings 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, Board 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 shall, at the expelled 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 Board (except where MLS participation without Board membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, a Board 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—Listings 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.

## **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, if 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. (Amended 4/92)

**Section 2.2—Submission of Written Offers and Counter-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. (Approved 11/87)

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. (Amended 4/92)

**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.  
(Adopted 11/93)

**Section 2.5—Reporting Sales to the Service:** Sales shall be reported immediately to the Multiple Listing Service by the listing broker unless the negotiations were carried on under Section 2(a) or (b) hereof, in which case the cooperating broker shall report, sending a copy to the listing broker within twenty-four (24) hours after acceptance. Anytime a "\$0" selling price is reported or the listing is withdrawn due to avoiding reporting the sales price, the Participant working for or with the Seller or Buyer requesting non-disclosure of the true sales price shall immediately submit to the Association office an affidavit signed by the Listing Participant, the Other Participant, if any, and the Buyer and Seller certifying that the contract contains a confidentiality provision prohibiting disclosure of the true sales price. Except as expressly providing for the previous statement, any failure by the Participant to comply with the requirements for accurate reporting of the Sold Price of a property shall subject the Participant to such disciplinary sanctions as the MLS Committee finds appropriate. If failure to correctly report the Sales Price has occurred repeatedly, as part of a practice or pattern of conduct by the Participant, such Participant shall be subject to expulsion from the Multiple Listing Service.

**Section 2.6—Reporting Resolutions of Contingencies:** The listing broker shall report to the Multiple Listing Service within twenty-four (24) hours that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement cancelled.

**Section 2.7—Advertising of Listing 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 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 conditions 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.

## 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.\* (Amended 11/96)

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. (Amended 11/96)

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 his producing an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superceeding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 11/95)

**Note 1:** The association multiple listing service shall not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The association multiple listing 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. (Amended 4/92)

**Note 3:** The Multiple Listing Service shall make no rule on the division of commissions between Participants and non-participants. This should remain solely the responsibility of the listing broker.

\*The compensation specified on listings filed with the multiple 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 his producing 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 (Amended 11/95)

**Note 4:** Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval or to lender approval; and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court or by a lender. In such instances, the fact that the gross commission is subject to court or to lender approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they produce an offer that ultimately results in a successful transaction. *(Adopted 11/98)*

**Note 5:** 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 5.1—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. *(Amended 11/96)*

## Service Charges

**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.

**(a) Initial Participation Fee:** A Designated REALTOR® applicant for participation in the Service shall pay an application fee as set forth annually by the Highland Lakes Association of REALTORS® Board of Directors with such fee to accompany the application. A non-principal member applicant for participation in the Service shall pay an application fee as set forth annually by the Highland Lakes Association of REALTORS® Board of Directors with such fee to accompany the application.

**Note:** The initial participation fee shall approximate the cost of bringing the Service to the Participant.

**(b) Recurring Participation Fee:** The annual participation fee of each Participant shall be an amount as established by the Board of Directors times each salesperson and licensed or certified appraiser who has access to and use of the Service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. Payment of such fees shall be made quarterly.

**Note:** A Multiple Listing Service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by increased frequency of such payments.

**(c) Subscription Fees:** One complete set of current listings shall be supplied to the Participant upon payment of the application fee and the participation fee all MLS Fees, dues, and charges, including, but not limited to initial participation fees, recurring fees, listing origination fees, subscription fees, etc., shall be assessed only to the MLS Participant (including licensed or certified appraisers). Payment of such fees may only be accepted from the MLS Participant, and not from non-principal brokers or sales licensees affiliated with the Participant. None of the foregoing is intended to preclude the MLS Participant from being reimbursed by affiliated licensees for fees or charges incurred on their behalf pursuant to any in-house agreement that may exist.

**Note 1:** This should be a minimal charge based on actual costs of producing and distributing the information.

**Note 2:** Any combination of charges may be used if they are in accordance with the National Association's Multiple Listing Policy Point No. 3. Multiple Listing Policy Point No. 3 prohibits a fee that is contingent on the sale of a listed property.

## Compliance with Rules

**Section 7—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 Sections 9 and 9.1 shall apply

(c) MLS quarterly dues are due and payable upon receipt. Participants whose dues are not paid within thirty (30) days will be deactivated from the MLS. To reactive the deactivated participant there will be a fine of one hundred (\$100) dollars or twenty-five (\$25) dollars per participant, whichever is greater

(d) The broker is responsible for collecting the quarterly dues and in turn cutting one (1) check payable to the association.

**Section 7.1—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.

## Meetings

**Section 8—Meetings of MLS Committee:** The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

**Section 8.1—Meetings of MLS Participants:** The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

**Section 8.2—Conduct of the Meetings:** The Chairperson or Vice Chairperson shall preside at all meetings or, in their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

## Enforcement of Rules or Disputes

**Section 9—Consideration of Alleged Violations:** The Committee shall give consideration to all written complaints having to do with violations of the rules and regulations.

**Section 9.1—Violations of Rules and Regulations:** If the alleged offense is a violation of the rules and regulations of the Service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board of REALTORS® within twenty (20) days following receipt of the Committee's decision. (Amended 11/96)

If, rather than conducting an administrative review, the Multiple Listing Committee has a procedure established to conduct hearings, the decision of the Multiple Listing Committee may be appealed to the Board of Directors of the Board of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®.

**Section 9.2—Complaints of Unethical Conduct:** All other complaints of unethical conduct shall be referred by the Committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's bylaws. (Amended 11/88)

## 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 Participant. The Service does not verify such 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

**Section 11—**By the act of submitting any property listing data to the Board MLS the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing data 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 the listed property. *(Amended 5/06)*

**Section 11.1—**All right, title, and interest in each copy of every Multiple Listing compilation created and copyrighted by the Highland Lakes Association Board of REALTORS® and in the copyrights therein, shall at all times remain vested in the Highland Lakes Association of REALTORS®.

**Section 11.2—**Each Participant shall be entitled to lease from the Highland Lakes Association of REALTORS® 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 Board.

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 Board of REALTORS®, 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 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 or published by a Board 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.

\*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 whatever.

**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 Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

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 an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Multiple Listing Service has deemed to be non-confidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

### **Use of MLS Information**

**Section 13—Limitations on Use of MLS Information:** Use of information from MLS compilation of current listing information, from the Board's statistical report, or from any sold or comparable report of the Board 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 Board 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 Association of REALTORS® (alternatively, from the Highland Lakes Association of REALTORS® MLS) for the period (date) through (date).

### **Changes in Rules and Regulations**

**Section 14—Changes in Rules and Regulations:** Amendments to the rules and regulations of the Service shall be by a 10% vote of the Principal Participant Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Board of REALTORS®.

Section 15 – n/a

Section 16 – n/a

### **Orientation**

**Section 17—Orientation:** Any applicant for MLS Participation and any licensee 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. (Amended 11/96)

## **The Internet Data Exchange (IDX)**

**Note:** These model rules, originally adopted in November 2001, are updated to reflect comprehensive enhancements to the IDX policy approved in May 2005.

**Section 18 – IDX Defined:** IDX affords MLS participants the option of authorizing display of their active listings on other participants' Internet websites.

### **Section 18.1 Authorization**

Participants' consent for display of their active 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 or frame the aggregated MLS data of other participants. Even where participants have given blanket authority for other participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller.

### **Section 18.2 Participation**

Participation in IDX is available to all MLS participants who are **Realtors®** who are engaged in real estate brokerage and who consent to display of their listings by other participants. This requirement can be met by maintaining an office or Internet presence from which participants are available to represent real estate sellers or buyers (or both).

#### **Section 18.2.1**

Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

#### **Section 18.2.2**

Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.

#### **Section 18.2.3**

Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.

#### **Section 18.2.4**

Participants may select the listings they choose to display on their IDX sites 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), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, exclusive agency, or open listing), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each participant. (Amended 11/06)

#### **Section 18.2.5**

Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days.

#### **Section 18.2.6**

Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

#### **Section 18.2.7**

When displaying listing content, a participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.

### **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., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.

##### **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 18.3.2**

Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not

otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.

### **Section 18.3.3**

All listings displayed pursuant to IDX shall identify the listing firm in a readily visible color and typeface not smaller than the median used in the display of listing data.

### **Section 18.3.4**

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

### **Section 18.3.5**

Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own Web sites subject to their participant's consent and control and the requirements of state law and/or regulation.

### **Section 18.3.6**

All listings displayed pursuant to IDX shall show the MLS as the source of the information.

### **Section 18.3.7**

Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites 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 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.

### **Section 18.3.8**

The data consumers can retrieve or download in response to an inquiry shall be limited to 15 listings per search.

### **Section 18.3.9**

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 18.3.10**

Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.

### **Section 18.3.11**

Display of expired, withdrawn, and pending listings is prohibited.

### **Section 18.3.12**

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

### **Section 18.3.13**

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

### **Section 18.3.14**

IDX operators must maintain an audit trail of consumer activity on the IDX site 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 18.4 Service Fees and Charges**

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. (Adopted 11/01, Amended 5/05)