



**MANUFACTURED HOUSING
MULTIPLE LISTING SERVICE**



MANUFACTURED HOUSING MULTIPLE LISTING SERVICE USER AGREEMENT

This Agreement is entered into as of _____ of 200__, by and between The Manufactured Housing Multiple Listing Service hereinafter called “MHMLS”, and _____, hereinafter called “USER”, upon the following terms and conditions:

I. Purpose

The Manufactured Housing Multiple Listing Service, hereinafter called “MHMLS”, is a means by which User makes a blanket unilateral offer of sub-agency to the other users of the MHMLS, and is a facility for the orderly correlation and dissemination of listing information among the MHMLS users so that users may better serve their clients and the public.

II. Eligibility and Responsibilities

Section 1: Persons or entities eligible to become an MHMLS User upon payment of designated fees and signature hereon may fall into either of two categories:

- (a) “User” - Any Retailer who is licensed by the state where they conduct their business or an agent associated with a licensed Retailer.
- (b) “Affiliate User” - Non-licensed individuals, firms, or corporations who, while not actively engaged in buying or selling mobilehomes, have interests requiring information covering manufactured homes. For purposes of this Agreement, and unless otherwise indicated, both Users and Affiliate Users shall be described hereinafter under the definition of “User”, although the signatory of this Agreement joins MHMLS under the precise definition of _____.

Section 2: By entering into this Agreement User agrees to pay all designated fees as a condition of using MHMLS, conform to all MHMLS Rules and Regulations set forth herein and to pay the cost of enforcement incidental thereto.

Section 3: At the time a new Retailer’s application is presented, and prior to the new Retailer receiving the MHMLS published listings, said Applicant shall convert all his or her listings to the MHMLS upon joining the service.

Section 4: Matters pertaining to the MHMLS are to be conducted by the Retailer. Retailer shall be responsible for compliance with or the violation of any term of this Agreement by the Retailer or by Agents associated with the Retailer, and shall be subject to disciplinary action as a result of any such violation.

Section 5: User acknowledges that MHMLS, establishes rules and regulations to be followed within the manufactured home sales community, and further acknowledges that the rules and regulations promulgated by MHMLS and contained herein are the minimum standards which are required for members of the MHMLS. In the event of any violation of the terms and conditions herein, a User in breach shall be subject to discipline pursuant to those rules and regulations established by the MHMLS which MHMLS members and users are bound to follow. All transactions shall also be governed by the rules of the state where the home is sited. All rules and regulations of the MHMLS as well as local and state rules for such transactions apply to all transaction. Where conflicts arise between MHMLS and the local and state rules those local and state rules will supersede MHMLS rules.

III. Qualified Homes

Only homes which meet the following qualifications shall be listed with the Service:

- (a) The home complies with the equipment requirements of the applicable Health and Safety Code and the regulations of the the appropriate state agency governing manufactured homes, HUD regulations, and any applicable local ordinance and is either 1) located within an established mobilehome park as defined by the state where the home is sited and that advertising or offering it for sale is not contrary to any provision of any contract between owner and the mobilehome park ownership, or 2) located pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and such use would be authorized for a total and uninterrupted period of at least one year.

IV. Fees/Services

Section: Annual Fees

- (a) Annual MHMLS Fees set by the MHMLS shall be paid by each User annually in advance on or before the 10th day of the first month of service and are non-refundable. The amount of such fees is set forth in the schedule of fees attached hereto as Exhibit "A".
- (b) User status may be revoked where the annual MHMLS Fee is not paid or remittance is not postmarked prior to midnight on the 10th day of the first month of the quarter.
- (c) Users whose status has been revoked 'for non-payment of the annual MHMLS Fee may be reinstated upon conditions and terms required by the MHMLS upon proper re-application.

Section 2: Publications/Computer Services

Retailer and Agent (i.e. actual "User") participants may print reports subject to payment of fees established by MHMLS as set forth in the schedule of fees attached hereto as Exhibit "A". Such fees are payable annually where User has an office receiving MHMLS Services. Any such MHMLS material or service is not sold hereby, but is only licensed for limited use within the requirements of confidentiality specified herein.

Section 3: Delinquencies

- (a) For failure to timely pay any Annual Fee set forth above within thirty (30) days of the due date, and provided that at least ten (10) days written notice of such failure has first been given to the User, active MHMLS status shall be revoked.

- (b) Where status has been revoked pursuant to subsection (a) above, reinstatement may occur upon payment of the reinstatement fee set forth on the Exhibit "A" fee schedule, and upon such other terms and conditions as are required by MHMLS.
- (c) Any monetary fines or penalties levied hereunder, as set forth throughout this Agreement, shall become due and payable with and a part of the next quarterly MHMLS payment which becomes due following the date upon which said fine or penalty is levied.

V. Multiple Listing, Procedure

Section 1: Discrimination. To be eligible for distribution with MHMLS, property must be offered to any person regardless of race, color, creed, national origin, sex or age, handicap or familial status.

Section 2: All qualified homes as defined herein which are not owned by User must be submitted to MHMLS.

Section 3: The interest of any User in a property shall be disclosed in the comments section on the listing form.

Section 4: A listing to be placed on the MHMLS becomes subject to the Rules and Regulations of MHMLS upon signature by the registered or legal owner. The listing shall not be postdated for submission to MHMLS and must be turned over to MHMLS within twenty-four (24) hours.

Section 5: No listing published by MHMLS establishes, directly or indirectly, any contractual relationship between MHMLS and User's client.

Section 6: Listings filed with MHMLS for publication shall:

- (a) Be an Exclusive Right to Sell.
- (b) Have specific beginning and ending dates.
- (c) Not be contingent. **(See Section 7)**
- (d) State the listing office and salesperson's name.
- (e) Provide for a commission and show the split to Selling Office or show the applicable net listing amount.
- (f) Have manufacturers serial number, appropriate state agency identifying number and/or the appropriate state form signed by the seller accompanying the listing to the Service if the above numbers are not available at the time the listing is taken.
- (g) Be otherwise complete and correct in all respects.
- (h) Have new rent verified by the park manager within ten (10) days of listing date.
- (i) Indicate whether Seller has authorized a Key Box to be placed on the property. (Optional)
- (j) Have a lock box installed within seventy-two (72) hours if authorized by the registered or legal owner. (Optional)

Section 7: A contingent listing is one which is not effective unless some other event or action is required or forthcoming. As such, it has no place on the MHMLS until the contingency is eliminated. Probate Conservatorship or Guardianship listings subject to court confirmation and prior approval shall not be deemed contingent listings.

Section 8: A listing processing fee established by MHMLS shall be paid for each property placed with MHMLS upon listing the property on MHMLS.

Section 9: Material changes in listings filed for publication (i.e. price, terms, commissions,) shall be authorized by the signature of the registered or legal owner, on a form approved by MHMLS, and filed with MLS within twenty-four (24) hours after the signatures have been obtained.

Section 10: Extension of the listing agreement of a published listing shall be signed by the registered or legal owner on a form approved by MHMLS and filed with MHMLS prior to the expiration of the listing. After the listing has expired a new listing must be submitted and a listing fee will be required to reactivate the listing on MHMLS.

Section 11: The withdrawal or cancellation of a published listing prior to the expiration date shall be on a form approved by MHMLS and filed with MHMLS within twenty-four (24) hours after all registered or legal owners signatures have been obtained.

Section 12: No listing filed with MHMLS shall be made available to any Non-participant of MHMLS.

Section 13: A listing shall not be advertised by any User other than the listing office, without the prior written consent of the listing office.

Section 14: No User may attempt to relist another's listing until the current listing expires at midnight on the expiration date.

Section 15: Unless the listing office and the registered or legal owner agree otherwise in writing, only the "FOR SALE" signs of the listing office may be placed on the property. The "FOR SALE" sign is to be left in place until buyer has received acceptance by the park and credit approval, and only then can the "SOLD" sign be displayed. The lock box is to stay in place until the close of escrow and the listing participant will pick up the lock box and sign.

Section 16: Only the "SOLD" sign of the listing office shall be placed on a property prior to the close of escrow, except with prior written consent of the listing office.

VI. Selling Procedures

User agrees to be bound and comply with those guidelines, requirements and procedures in connection with the sale of manufactured homes which have been established by the MHMLS, and to which all users of MHMLS are bound.

VII. Reporting Sales

Section 1: When a deposit is taken and the offer is accepted, it is the listing Retailer or agent's responsibility to report the sale to MHMLS:

- (a) As a Pending Sale (p).
- (b) As sold (s).

Section 2: The report of sale shall be made within twenty-four (24) hours following acceptance of offer using a form approved by MHMLS.

Section 3: It shall be the listing Retailer or Agent's responsibility to report the Final Sale as follows:

- (a) the selling price.
- (b) the date escrow closed.
- (c) the name of selling office.
- (d) the name of the selling agent.

Section 4: It shall be the listing Retailer or Agent's responsibility to report within twenty-four (24) hours any sale which has fallen through, which has been placed back on the market for sale or withdrawn from the service.

Section 5: If the registered or legal owner of any listed property filed with MHMLS refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be reported immediately to MHMLS and disseminated to all Users.

VIII. Commissions

Section 1: MHMLS shall not fix, control, recommend, suggest, or establish commission rates or fees charged for services rendered by Retailers, and shall not fix, control, recommend, suggest, or maintain the division of commission or fees between cooperating Retailers.

Section 2: The compensation offered by the listing Retailer to the selling Retailer, shall be specified on the listing published by MHMLS and may be shown in one of the following forms:

- (a) By showing a percentage of the gross selling price.
- (b) By showing a definite dollar amount to selling agent.
- (c) By showing the net listing amount.

IX. Listings of Suspended, Expelled or Resigned MHMLS Dealers

Section 1: When a Retailer is suspended or expelled from MHMLS for violation of MHMLS Regulations or other obligations, except failure to pay dues, fees or charges, all listings currently filed with the MHMLS by the Retailer shall be retained in MHMLS until sold, withdrawn or expired and shall not be renewed or extended by MHMLS beyond the termination date of the listing agreement in effect when the suspension or expulsion became effective.

Section 2: If a Retailer has been suspended from MHMLS for failure to pay dues, fees or charges, MHMLS will cease to provide any services, including continued inclusion of the Retailer's listings in the MHMLS.

Section 3: When a Retailer resigns from MHMLS, MHMLS may cease to provide services, including continued inclusion of the resigned Retailer's listings on MHMLS.

Section 4: If a Retailer or an Agent has his license revoked, MHMLS will automatically terminate all services provided by the MHMLS to said Retailer or Agent.

X. Confidentiality of MHMLS Information

Section 1: All MHMLS informational material (including but not limited to reports, retailer or agent contact information or any other information available to members on the MHMLS site) is confidential and is for the exclusive use of MHMLS participants.

Section 2: The information available from MHMLS is published verbatim as submitted, without change by MHMLS, in the exact form as posted with MHMLS by User. MHMLS does not verify the accuracy of any information provided to MHMLS and disclaims any responsibility for its inaccuracy. User agrees to indemnify and defend and hold MHMLS harmless against any liability, damage, loss, claim, injury or attorney's fees or court costs arising from or related to any inaccuracy or inadequacy of the information provided to MHMLS by User.

Section 3: Users shall at all times maintain control over and responsibility for each copy of any MHMLS report available to them on MHMLS site and shall not distribute any copies to persons other than persons who are affiliated with MHMLS Users.

Section 4: Users shall be permitted to display MHMLS publications or computer outputs to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing and able buyers for the manufactured homes described in the MHMLS publications and computer outputs.

Section 5: Users shall be permitted to display MHMLS reports to sellers or prospective sellers only in conjunction with their ordinary business activities in listing properties. Such displays shall be only in the immediate presence of the MHMLS Participant or those persons affiliated with such Participant.

Section 6: In consideration of the permission to disseminate and utilize MHMLS information each User agrees not to permit any person other than another authorized MHMLS User to gain possession of, make copies of, or disseminate this confidential information. It is User's obligation not to permit any person to take MHMLS reports when transferring to a non-participant of MHMLS.

XI. Violations of MHMLS Regulations

Section 1: The MHMLS may impose fines for the following violations of MHMLS Regulations:

- (a) Failure of User to pay any charge or assessment within one month of due date, providing at least ten (10) days written notice has been given, will result in suspension of services to the User until the amount is paid in full or other arrangements satisfactory to MHMLS are made.
- (b) Failure of a Retailer to place a mandatory listing with MHMLS as required by Article VI, Section 2, will make the Retailer liable for an assessment of \$100 for the first offense, \$200 for a second offense and may result in possible suspension from MHMLS for a third offense.
- (c) Failure of a Retailer to report the pending sale of any multiple listed property as required by Article VIII will make the Retailer liable for an assessment of \$100.
- (d) Failure of a Retailer to report any sale which has fallen through and which has been placed back on market for sale as required by Article VIII, Section 4, will make the Retailer liable for an assessment of \$100.
- (e) Failure of a Retailer to report the Final Sale of any multiple listed property as required by Article VIII, Section 3 within seven (7) days after close of escrow will make the Retailer liable for an assessment of \$100.
- (f) Failure of a Retailer to submit a withdrawal or cancellation form as required by Article VI, Section 11, will make the Retailer liable for an assessment of \$100.
- (g) Failure of a Retailer or agent associated with a Retailer to furnish and maintain correct information as required by Article VI, Section 6, paragraph (g) will make the Retailer liable for an assessment of \$50 for each incorrect item entered into MHMLS.
- (h) Any participant who removes and uses another participant's lock box will be liable for an assessment of \$50.

XII. Enforcement of Violations of MHMLS Regulations .

Section 1: A Hearing Panel will hear written complaints from a Retailer or MHMLS user alleging violations of MHMLS Regulations by an MHMLS Retailer or by persons associated with a Retailer.

Section 2: MHMLS has authority to appoint a Hearing Panel of three (3) or more MHMLS Dealers who are members to hear alleged violations of MHMLS Regulations. A fifteen (15) day written notice to the offending Dealer shall include:

- (a) The MHMLS Regulation alleged to have been violated.
- (b) The time and place of hearing.

- (c) The right for Retailer to be represented at the hearings by legal counsel.
- (d) The right to have witnesses at the hearing.

Section 3: No hearing may be held without at least three (3) of the above-described Hearing Panel members present. After a hearing, the Hearing Panel may take disciplinary action against a MHMLS Retailer, which may consist of one or more of the following:

- (a) Letter of Reprimand with copy placed in the Retailer's MHMLS File.
- (b) Payment of a fine not to exceed \$500 for the first offense, \$750 for the second offense, and \$1,000 for the third offense.
- (c) Suspension of MHMLS Service for a period not to exceed one (1) year.
- (d) Termination of Retailer's or MHMLS membership.
- (e) Any discipline imposed may be suspended and the Retailer "placed" on probation not to exceed one (1) year.

Section 4: Appeals

- (a) Within twenty (20) days after the Hearing Panel's disciplinary decision, either the complainant or the respondent may file a written appeal with MHMLS.
- (b) If no appeal is filed, the Hearing Panel's disciplinary decision shall become final.
- (c) An appeal must be accompanied by a \$100 hearing fee payable to MHMLS.
- (d) If an appeal is filed, all parties shall be notified of the time and place of the appeal hearing, which shall be held before the Directors of Manufactured Housing MLS
- (e) At the hearing before the Directors a representative of the Hearing Panel shall present a transcript of the case (which may be a tape or other recording) or if there be no transcript the representative shall summarize the case. Either party, may be heard regarding corrections to the summary, and may present to the Directors their reasons why the Hearing Panel's recommendations should, or should not be followed.
- (f) The Directors' decision may adopt, reject, or modify the recommendation of the Hearing Panel.
- (g) The decision of the Directors is final and unappealable.

Section 6: If the Directors of the Board believe the disciplined Retailer may resort to legal action because of suspension of MHMLS services or expulsion from MHMLS membership, they may specify the suspension of service or expulsion from MHMLS membership shall become effective upon entry in a suit by MHMLS for declaratory relief of a final judgment by a court of competent jurisdiction, declaring that the suspension of services or expulsion from the MHMLS violates no rights or the Retailer.

XIII. Arbitration

Each Retailer is encouraged to arbitrate disputes with any other Retailer of the MHMLS. Any such arbitration process must include all parties involved in the dispute as well a MHMLS representative to ensure that all parties are fairly represented and that the arbitration complies with MHMLS enforcement policies. If arbitration is not an acceptable dispute mechanism, local agencies such as Better Business Bureau (BBB) may be a viable option for dispute resolution. In any case, a MHMLS representative must be present to ensure compliance with our rules and regulations and enforcement policies.

XIV. Amendments

The terms of this Agreement, including the attached fee schedule may be amended, at the sole discretion of MHMLS, provided written notice is first provided to all Users at least thirty (30) days prior to the effective date of such amendment. MHMLS rules and regulations are to work in concert with local and state laws where business is being transacted. Where conflicts arise between MHMLS rules and local and state rules those local and state rules will supersede MHMLS rules and regulations.

XV. Non-assignability

Neither this Agreement, or any rights granted hereunder, may be assigned or transferred by either party without the express written consent of the non-transferring party.

XVI. Entire Agreement

This Agreement contains the sole and entire Agreement of the parties. Any agreement or representation not expressly set forth herein, with the exception of amounts or procedures to be established by MHMLS as set forth herein, are null and void.

XVII. Time of Essence

Time is expressly declared to be of the essence of this Agreement.

XVIII. Waiver

The waiver by MHMLS of any breach of a provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Agreement.

XIX. Attorney's Fees

In the event that any legal action is required to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover its attorney's fees and legal costs.

MHMLS:

By: _____ Dated: _____ 200__
Name and Position
MHMLS

User/Affiliate User

By: _____ Dated: _____ 200__
By: _____ Dated: _____ 200__
Name/Position