

**Roanoke Valley / Lake Gaston Board of Realtors®  
Multiple Listing Service Rules & Regulations**

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**ROANOKE VALLEY / LAKE GASTON BOARD OF REALTORS**  
**Multiple Listing Service Rules & Regulations**

The MLS (Service) is separately incorporated as MLS-RVLG, Inc., but wholly owned by the Roanoke Valley Lake Gaston Board of Realtors.

**MLS STRUCTURE**

A multiple listing activity available for voluntary participation, but requiring members (Principals,) who participate (Participant) to submit all listings of designated types of property, is termed “a mandatory listing service.” The mandatory service permits each Realtor® to decide whether or not multiple listing is consistent with the Realtors® method of doing business. If a decision is made to participate in the activity, however, then all listings covered by the rules are required to be submitted.

The MLS is a “mandatory listing service,” and all listings covered by the rules are required to be submitted.

**LISTING PROCEDURES**

**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, and are located within the territorial jurisdiction of the multiple listing service, and are taken by participants on exclusive right to sell and exclusive agency forms accepted by the Service shall be delivered to the multiple listing service within seventy-two (72) hours after all necessary signatures of seller(s) have been obtained. If all necessary signatures of seller(s) have not been obtained within five days after the listing’s effective date, participant must automatically and promptly provide the MLS with a copy of the completely signed listing agreement showing the date of receipt (i.e., fax header, postmark on envelope, delivery receipt).

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange vacant lots and acreage for sale or exchange
- d. commercial building and/or lots for sale or exchange

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:

- may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the participants
- 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 Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker, regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else; and a contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else, except that the seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker.
- b. **Exclusive Agency Listing:** A contractual agreement under which the listing broker acts as the agent or as the legally recognized non-agency representative of the seller(s), and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker.

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 Types of Properties**

Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the participant's option provided, however, that any listing submitted is entered into within the scope of the participant's licensure as a real estate broker:

- residential
- subdivided vacant
- business
- motel-hotel
- lot
- opportunity
- residential
- mobile home parks
- industrial
- income
- land and ranch
- commercial
- mobile homes
- income

#### **Section 1.1.1 Listing 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. Particular attention should be given to:

- a. Objectivity and Facts: The information included in any MLS compilation should be limited to information related to the sale of listed property which is objective and capable of being verified by any interested party. The MLS information



should not include any subjective impressions or opinions that could be misunderstood or misconstrued.

- b. Square Footage: The Roanoke Valley Lake Gaston Board of Realtors MLS requires that accurate square footage of Living Area be reported to the Service at the time of submission. The MLS will use the NC Real Estate Commission's Residential Square Footage Guidelines publication as the standard used. The MLS currently provides the following fields for this purpose:
  - 1. Living area above grade
  - 2. Living area below grade
  - 3. Total living area (the sum of the two figures above)
- c. Agency /Agent Information: Any information pertaining to agency or agent must be restricted to the default fields of the MLS, and shall not be included in any manner in the remarks fields or photos.
- d. Photographs / Graphic Representation: Within three (3) calendar days of notifying the Service of a new listing, agent must submit a Main View Photograph. Such main view photo may be the most marketable feature of a property from the perspective of Seller and Listing Agent.

In the case of an improved property, (if main view photo does not depict structure itself), there MUST also be a "front view" photo of the dwelling/structure added within same 3 days. (Front view is the side determined to be the most marketable view by Seller and Listing Agent. In the case of waterfront homes, this may be street side or lakeside.

Each improved and unimproved listing classified with a special feature (i.e. waterfront, pond, creek, water view) must also include a photo of the special feature if that special feature constitutes a significant amount of the marketing appeal or value of the property. Additional photographs are optional.

New construction listings must submit a front view once the exterior siding/façade and roofing are finished. At closing, it is recommended that that under construction photos be updated with actual photo of property.

Photographs shall not provide identification information of listing agent, listing firm, seller(s) or contain promotional message.

Note: Multiple Listing Services may, as a matter of local discretion, require submission of a reasonable number of photographs or other graphic representations that accurately depict listed property except where sellers expressly direct that photographs of their property not appear in MLS compilations.

### **Section 1.2.1 Limited Service Listings**

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)

- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

### **Section 1.2.2 MLS Entry-only Listings**

Listing agreements under which the listing broker will not provide any of the following services:

- a. arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b. accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c. advise the seller(s) as to the merits of offers to purchase
- d. assist the seller(s) in developing, communicating, or presenting counter-offers
- e. participate on the seller's(s') behalf in negotiations leading to the sale of the listed property will be identified with an appropriate code or symbol (e.g., EO) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

### **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 twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker.

Status Identification: The following codes appear in the RVLG MLS to identify the status of listings:

A	<u>Active:</u> Listing that is currently for sale.
P	<u>Under Contract/Pending:</u> <i>Listing where the property is under contract and the purchase contract may or may not have contingencies and settlement is pending.</i> The listing will continue to appear in IDX sites as potentially for sale.
C	<u>Closed:</u> Settlement of sale.
W	<u>Withdrawn:</u> Listing that has been withdrawn, in writing by the Seller, prior to contract expiration date.
D	<u>Deleted:</u> Listing that has been marked for Deletion from the database (for erroneous listings, i.e. duplicated or accidentally cloned listings)
E	<u>Expired:</u> Listing that has reached or passed its termination date.
T	<u>Temporarily Off Market</u>

### **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.

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 to 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 of Listings**

Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed.

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and 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 Service Area**

Only listings of the designated types of property located within the service area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's service area will be accepted if submitted voluntarily by a participant, but cannot be required by the service.

### **Section 1.13 Listing 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, association 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 association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association 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 Listing 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, association 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 by the expelled 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 expulsion became effective. If a participant has been expelled from the association (except where MLS participation

without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association 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 Listing 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.

### **Section 1.16 Duplicate Listings**

In some instances, a seller may specify in the listing agreement that the same property be marketed in multiple ways. The MLS may accommodate duplicate listings of the same property in different categories under the following circumstances. Only one of the multiple listings may be marked Sold in the MLS, and all others shall be deleted from the MLS at the same time the sale is reported to the MLS. –

- a. An unimproved lot may be listed as a lot and/or a residence if it has an existing, livable structure that has little or unsubstantial value.
- b. An improved lot may be listed as a lot and/or a residence if the seller intends to begin foundation construction within two months.
- c. An improved lot that can be occupied as a residential or commercial property.

## **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, 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.

#### **Section 2.2 Submission of Written 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.

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.

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented.

### **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.

### **Section 2.5 Reporting Sales to the Service**

Status changes, including final closing of sales and sale prices, shall be reported to the multiple listing service by the listing broker within twenty-four (24) hours after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within 24 hours after occurrence and the listing broker shall report them to the MLS within 24 hours after receiving notice from the cooperating broker.

Note 1: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the

MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its participants.

- Note 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS. In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the MLS:
- a. categorizes sale price information as confidential and
  - b. limits use of sale price information to participants and subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below.

The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to participants and subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices.

- Note 3: As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records.)

### **Section 2.6 Reporting Resolution 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 Listings 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, if asked, 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<sup>®</sup> Code of Ethics, its Standards of Practice, and its Case Interpretations.

Note: This section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This section is intended to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.



This section is also intended to encourage brokers to participate in the service by assuring them that other participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

This section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics.

#### **Section 4.4 Use of the Terms MLS and Multiple Listing Service**

No MLS participant, subscriber, or licensee affiliated with any participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, subscribers and licensees affiliated with participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to participants and subscribers. This does not prohibit participants and subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise.

### **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<sup>®</sup>, 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.

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 submitting an offer to purchase. The compensation specified on listings published by the MLS shall 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.

Note: MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). (Not adopted by RVLG)

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.

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 submitting 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 superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount.

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.

Note 3: The multiple listing service shall make no rule on the division of commissions between participants and nonparticipants. This should remain solely the responsibility of the listing broker.

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, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court 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 submit an offer that ultimately results in a successful transaction.

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.

Note 6: Multiple listing services must give participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they must also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers.

### **Section 5.0.1 Disclosing Potential Short Sales**

participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing participants.

When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants.

Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants,

listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within 48 hours of receipt of notification from the lender.

### **Section 5.2 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 5.3 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 5.4 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.

## **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:

#### **Section 6.1 Initial Participation Fee**

An applicant for participation in the service shall pay an application fee of \$1,500.00 with such fee to accompany the application. Appraisal-only firms will pay a reduced application fee of \$1,000.00. In addition, each subscriber will be charged a \$200.00 new subscriber/agent fee for the initial set-up.

Note: The initial participation fee shall approximate the cost of bringing the service to the participant.

### **Section 6.1.1 Recurring Participation Fee**

The annual participation fee of each participant shall be an amount equal to \$504.00 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.

The annual participation fee shall be an amount equal to \$240.00 times each participant's administrative personnel (office staff, personal assistants) who has access to and use of the service.

Fees shall be prorated on a monthly basis. Payment of such fees shall be made to the Multiple Listing Service quarterly, in advance of service, and received by the Service on or before the 25<sup>th</sup> day of the months of November (for 1<sup>st</sup> Quarter), February (for 2<sup>nd</sup> Quarter), May (for 3<sup>rd</sup> Quarter) and August (for 4<sup>th</sup> Quarter).

However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that broker participants sign a certification of nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated.

Failure by a participant to pay the quarterly participation fee within ten days of its due date shall (or may at the discretion of the Service) result in a late payment charge as indicted in Section 6.3.1. Refer to Section 7.1 (a) for additional penalties.

### **Section 6.1.2 Initial Subscriber Application Fee**

Participant must submit new subscriber application and fees associated with such for each & every licensee affiliated with participant within 14 days of affiliation. Failure to do so within 14 days shall result in a participant fine on the 15<sup>th</sup> day. If application, fees and fine are not received within 30 days of the infraction date, additional fine(s) will be imposed every 30 days from that day forward until receipt of application, fee, and fines, as indicated in Section 6.3.1.

Note 2: Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as subscribers may, at their discretion, charge recurring fees.

### **Section 6.2 Listing Fee**

A participant shall pay a monthly listing fee in an amount equal to the number of listings he filed with the service during the previous month, multiplied by the listing fee of \$ zero per listing.

## Section 6.3 Additional Fees / Fines

### 6.3.1 Participant

\$ 25.00	Late Fee per quarter per subscriber for Recurring Participation (6.1.1.) with a \$50.00 minimum.
\$ 300.00	Fine for Late Initial Subscriber Application & Fee (6.1.2)
\$ 50.00	Additional Fine each 30-day period for continued late payment of Initial Subscriber Application, Fees, and Fines (6.1.2)
\$ 750.00	Reinstatement fee (firm deactivated for non-payment of any service charge or fee for a period of 0-6 months).
\$1,500.00	Reinstatement fee (firm deactivated for non-payment of any service charge or fee for a period of more than 6 months or 180 days).

### 6.3.2 Subscriber

\$ 100.00	Subscriber Transfer Fee
\$ 200.00	New Subscriber Setup Fee (defined as any subscriber/agent that is new or has been inactive for more than 180 days). [Refer to Section 6.1]
\$ 50.00	New Administrator Setup Fee (office staff, personal assistants)
\$ 200.00	MLS Team Setup Fee

### 6.3.3 Lockbox

\$ 25.00	Lost or Broken Card Fee for Lock Box participants (this fee is waived if subscriber has been active in system for two consecutive years with no replacement or breakage claims)
\$ 100.00	Failure to notify MLS of lost Key Card
\$1,000.00	Loaning, selling or borrowing a Key Card
\$ 100.00	Replacement Lock Box Fee for Lock Box participants

### 6.3.4 Administrative / Miscellaneous

\$ 50.00	RETS Feed (per month)
\$ 50.00	RETS Feed/FTP Data Pull Setup Charges
\$ 25.00	FTP Data Pull (per month)
\$ --	Ads (depends on ad)
\$ 75.00	Custom Framing Link Fee
\$ 1,000.00	Non compliance with Subscription Waiver-participant Fine
\$ 50.00	Unlicensed Office Staff or Personal Assistant MLS Access Setup Charge
\$ 20.00	Unlicensed Office Staff or PA MLS access monthly recurring fee
\$ 25.00	Unlicensed Office Staff Keycard Setup Charge
\$ 12.00	Unlicensed Office Staff Keycard Recurring monthly fee

## COMPLIANCE WITH RULES

### Section 7: Compliance with Rules - Authority to Impose Discipline

By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000.00
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

Note: A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance.

### Section 7.1 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 and firm deactivated until service charges or fees are paid in full.
- b. A reinstatement fee will be charged to any firm deactivated for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

Note: Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations.

## **Section 7.2 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.

Note: Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or subscribers affiliated with MLS members or participants.

## **MEETINGS**

### **Section 8: Meetings**

The meetings of the participants in the service **or** the board of directors of the multiple listing service for the transaction of business of the service shall be held in accordance with the provisions of Article II, bylaws of the service.

## **ENFORCEMENT OF RULES OR DISPUTES**

### **Section 9: Considerations of Alleged Violations**

The board of directors shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors).

### **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 board of directors of the service, and if a violation is determined, the board of directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS<sup>®</sup> within twenty (20) days following receipt of the directors' decision.

If, rather than conducting an administrative review, the MLS has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the board of directors of the MLS within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the



professional standards committee of the association of REALTORS® for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®.

### **Section 9.2 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the board of directors of the service to the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. (Amended 11/88).

### **Section 9.3 Complaints of Unauthorized Use of Listing Content**

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the committee (Board of Directors) will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the committee (Board of Directors) that the use is authorized. Any proof submitted will be considered by the Committee (Board of Directors), and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee (Board of Directors) determines that the use of the content was unauthorized, the Committee (Board of Directors) may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

### **Section 9.4 MLS Rules Violations**

MLS participants may not take legal action against another participant for alleged rules violation(s) unless the complaining participant has first exhausted the remedies provided in these rules.

## **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 Responsibility 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**

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 whatsoever.

### **Section 11: Ownership of MLS Compilation and Copyright**

By the act of submitting any property listing content to the MLS, the participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content 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 listed property.

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content.

### **Section 11.1 All Rights**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the Roanoke Valley Lake Gaston Board of REALTORS<sup>®</sup> and in the copyrights therein, shall at all times remain vested in the Roanoke Valley Lake Gaston Board of REALTORS<sup>®</sup>.

### **Section 11.2 Participants Rights**

Each participant shall be entitled to lease from the Roanoke Valley Lake Gaston Board 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 association.

Participants shall acquire by such lease only the right to use the MLS compilation in accordance with these rules.

Note: This section should not be construed to require the participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

## **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 association 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 an association 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 an association 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.

### **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.

*[Reasonable Number: It is intended that the participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.]*

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 valuations on a particular properties for clients and customers. Any MLS content in data feeds available to participants for real estate brokerage purposes must also be available to participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used 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/association's statistical report, or from any sold or comparable report of the association 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 association 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 Roanoke Valley Lake Gaston Board of REALTORS® 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 consideration and approval of the board of directors of the multiple listing service, subject to final approval by the board of directors of the Roanoke Valley Lake Gaston Board of REALTORS® (shareholder).

## **ARBITRATION OF DISPUTES**

**Section 15: Arbitration of Disputes** (Not Applicable here – MLS not open to nonmembers)

## **STANDARDS OF CONDUCT FOR MLS PARTICIPANTS**

**Section 16: Standards of Conduct** (Not Applicable here – MLS not open to nonmembers)

## **ORIENTATION**

### **Section 17: Orientation**

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than four (4) 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.

Participants and subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancement and/or changes to MLS rules or policies. Participants and subscribers must be given the opportunity to complete any mandated additional training remotely.

## **INTERNET DATA EXCHANGE (IDX)**

### **Section 18: IDX Defined**

IDX affords MLS participants the ability to authorize limited electronic display of their listings by other participants.

#### **Section 18.1 Authorization**

Participants' consent for display of their 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, frame or display 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 where the seller has prohibited all Internet display.

#### **Section 18.2 Participation**

Participation in IDX is available to all MLS participants who are REALTORS<sup>®</sup> who are engaged in real estate brokerage and who consent to display of their listings by other participants.

##### **Section 18.2.1 Monitoring Sites**

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies.

##### **Section 18.2.2 Participants Sole Use**

MLS participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require participants to prevent indexing of IDX listings by recognized search engines.

##### **Section 18.2.3 Property Address**

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs).

#### **Section 18.2.4 Selection of Listings**

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 or exclusive agency), 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.

#### **Section 18.2.5 Data Refresh Rate**

Participants must refresh all MLS downloads and displays automatically fed by those downloads not less frequently than every 12 hours.

#### **Section 18.2.6 Participants Use Only**

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

#### **Section 18.2.7 Display of Brokerage Firm**

Any IDX display controlled by a participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, “control” means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules.

#### **Section 18.2.8 Third Party Comments**

Any IDX display controlled by a participant or subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing,

either or both of those features shall be disabled or discontinued for the seller’s listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by participants. Except for the foregoing and subject to Section 18.2.9, a participant’s IDX display may communicate the participant’s professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller.

#### **Section 18.2.9 Means to Communicate Inaccurate 3<sup>rd</sup> Party Information**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property.

Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment.

#### **Section 18.2.10 Listings Co-mingled**

An MLS participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display.

#### **Section 18.3 Display**

Display of listing information pursuant to IDX is subject to the following rules:

##### **Section 18.3.1 Selected Fields**

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 Type of Listing Agreement**

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed.

##### **Section 18.3.2 Data Modification**

Participants shall not modify or manipulate information relating to other participants’ listings. MLS participants may augment their IDX displays of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated from the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields.

##### **Section 18.3.3 Identify the Listing Firm**

All listings displayed pursuant to IDX shall identify the listing firm in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data. Displays of minimal information (e.g. “thumbnails”, text messages, “tweets”, etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.



#### **Section 18.3.4 Subscribers Consent to Display**

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

#### **Section 18.3.5 MLS as Source**

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

#### **Section 18.3.6 Use of MLS Data**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites 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 the 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. Displays of minimal information (e.g. "thumbnails", text messages, "tweets", etc., of two hundred (200) characters or less are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

#### **Section 18.3.7 Number of Listings Displayed**

The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than one hundred (100) listings or five percent (5%) of the listings available for IDX display, whichever is fewer

#### **Section 18.3.8 Right to Display**

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 18.3.9 Display of Non-MLS Listings**

Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS participant holds participatory rights must be displayed separately from listings obtained from other sources. 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. Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures.

Note: An MLS participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in

the display of IDX information from each of the MLSs on a single search results page; and that participants may display listings from each IDX feed on a single webpage or display.

#### **Section 18.3.10 Types of Listings Displayed**

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

#### **Section 18.3.11 Sellers Information**

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

#### **Section 18.3.12 Firewall Protection**

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

#### **Section 18.3.13 Consumer Activity Audit**

Participants must maintain an audit trail of consumer activity on their website 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 18.3.14 Advertising & Co-Branding**

Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information is larger than that of any third party.

#### **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.

### **VIRTUAL OFFICE WEBSITES (VOWS)**

#### **Section 19.1 VOW Defined**

**VOW Defined:** A "Virtual Office Website" (VOW) is a participant's Internet website, or a feature of a participant's website, through which the participant is capable of providing real estate brokerage services to consumers with whom the participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the participant's oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a participant may, with his or her participant's consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the participant's oversight, supervision, and accountability.

**Participant Defined:** As used in Section 19 of these rules, the term “Participant” includes a participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “participant’s consent” and “participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a participant.

**AVP Defined:** “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a participant to operate a VOW on behalf of the participant, subject to the participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more participants. Access by an AVP to MLS listing information is derivative of the rights of the participant on whose behalf the AVP operates a VOW.

**MLS Listing Information Defined:** As used in Section 19 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by participants to the MLS and aggregated and distributed by the MLS to participants.

### **Section 19.2 Right to Display**

- a. The right of a participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the participant has participatory rights. However, a participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices.
- b. Subject to the provisions of the VOW policy and these rules, a participant’s VOW, including any VOW operated on behalf of a participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX).
- a. Except as otherwise provided in the VOW policy or in these rules, a participant need not obtain separate permission from other MLS participants whose listings will be displayed on the participant’s VOW.

### **Section 19.3 Consumer Use and Relationship**

#### **Requirements of Use**

Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the participant must take each of the following steps:

- a. The participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.
- b. The participant must obtain the name of and a valid e-mail address for each Registrant. The participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use

(described in Subsection d., below). The participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.

- c. The participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The participant must also assure that any e-mail address is associated with only one user name and password.

### **Password Expiration, Maintaining Records**

The participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

### **Breach of Security**

If the MLS has reason to believe that a participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant.

### **Terms of Use**

The participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:

- a. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the participant
- b. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
- c. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
- d. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
- e. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database

### **May Not Impose Representation**

The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the participant. Any agreement entered into at any time between the participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the

participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click.

### **Authorization to Access VOW**

The terms of use agreement shall also expressly authorize the MLS and other MLS participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the participant and the Registrant.

### **Section 19.4 Means of Communication**

A participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the participant to ask questions or get more information about any property displayed on the VOW. The participant or a non-principal broker or sales licensee licensed with the participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that participant and displayed on the VOW.

### **Section 19.5 Security of Data**

A participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS.

Note: MLSs may adopt rules requiring participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.

### **Section 19.6 Seller's Authorization to Display**

A participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet.

A participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision.

### **Seller Opt-out Form**

Check one option:

- a) I have advised my broker or sales agent that I do not want the listed property to be displayed on the internet.
- b) I understand and acknowledge that if I have selected option a) above, consumers who conduct searches for listings on the internet will not see information about this listed property in response to their searches.

Initials of Seller \_\_\_\_\_

The participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater.

### **Copy of Seller's Instructions to Withhold**

Where a seller affirmatively directs his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within forty-eight (48) hours.

### **Section 19.7 Third Party Comments**

Subject to Subsection b (below), a participant's VOW may allow third-parties:

- a. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing.

Notwithstanding the foregoing, at the request of a seller, the participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all participants' websites. Subject to the foregoing and to Section 19.8, a participant's VOW may communicate the participant's professional judgment concerning any listing. A participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller.

### **Section 19.8 Means to Communicate Inaccurate 3<sup>rd</sup> Party Information**

A participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment.

### **Section 19.9 Data Refresh Rate**

A participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days.

### **Section 19.10 Participants Sole Use**

Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup> VOW policy, or in any other applicable MLS rules or policies, no participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity.

### **Section 19.11 Privacy Policy**

A participant's VOW must display the participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used.

### **Section 19.12 Selection of Listings**

A participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property, cooperative compensation offered by listing broker, and whether the listing broker is a REALTOR<sup>®</sup>.

### **Section 19.13 Monitoring Sites**

A participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies.

### **Section 19.14 Affiliated VOW Partner**

A participant may operate more than one VOW himself or herself or through an AVP. A participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a participant by an AVP is subject to the supervision and accountability of the participant.

Note: The terms of the following sections (19.15–19.25) apply to VOW's and when providing brokerage service through all other delivery mechanisms.

### **Section 19.15 Type of Listing Agreement**

A participant's VOW may not make available for search by or display to Registrants any of the following information:

- a. expired or withdrawn listings
- b. the compensation offered to other MLS participants
- c. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- d. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- e. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property

### **Section 19.16 Data Modification**

A participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields.

### **Section 19.17 Disclaimer of Accuracy**

A participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A participant's VOW may include other appropriate disclaimers necessary to protect the participant and/or the MLS from liability.

### **Section 19.18 Identify the Listing Firm**

A participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data.

### **Section 19.19 Number of Listings Displayed**

A participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than 100 current listings and not more than 100 sold listings in response to any inquiry.

Note: The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule, but may not be fewer than one hundred (100) listings or five percent (5%) of the listings in the MLS, whichever is less.

### **Section 19.20 Advertising and Co-branding**

A participant may display advertising and the identification of other entities ("co-branding") on any VOW the participant operates or that is operated on his or her behalf. However, a participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the participant's logo and contact information (or that of at least one participant, in the case of a VOW established and operated on behalf of more than one participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party.

### **Section 19.21 Identify Source of Data**

A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing.



### **Section 19.22 Separate Search for Non MLS Listings**

A participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS.

### **Section 19.23 License Agreement**

Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS.

## **LOCK BOX SYSTEM**

### **Section 20: Lock Box System and Security Requirements**

Eligibility for coverage under NAR's blanket errors and omissions insurance program is contingent on compliance with the following security measures whether the system is operated by the association, its MLS, or on behalf of an association by a recognized lock box vendor:

#### **Section 20.1 Key – Non-duplicative**

Any key, programmer, or other device (hereinafter referred to as key) by which a lock box can be opened shall be non-duplicative. By non-duplicative it is not meant that the key is necessarily covered by a current patent but that it cannot be readily copied in the manner that other types of keys ordinarily are.

#### **Section 20.2 Key - Original Source**

Keys must be obtained from the original manufacturer, from a recognized vendor of lock box systems or from any other legitimate source. Prior to utilizing previously used keys, lids, or boxes, information shall be obtained from the original manufacturer to determine whether the key's pattern, code, or configuration is already in use by other associations, multiple listing services, or other users in the vicinity. Surrounding associations and multiple listing services shall also be contacted to determine whether the key's pattern, code, or configuration is currently in use.

#### **Section 20.3 Activity or Association Owned**

Any lock box system shall be designated as either an activity of an association of REALTORS® or an association-owned and operated MLS. The lock box system is designated as an activity of the association-owned and operated MLS.

The lock box system is an activity of the RVLG Board of Realtors® owned and operated multiple listing service, and every MLS participant and every non-principal broker, sales licensee and licensed or certified appraiser who is affiliated with an MLS participant and who is legally eligible for MLS access shall be eligible to hold a key subject to their execution of a lease agreement with the MLS.

Key lease agreements executed by non-principal brokers, sales licensees, and licensed or certified appraisers will be cosigned by the designated REALTOR® or the office's broker of record. Lease agreements shall spell out the responsibilities of the parties and shall incorporate by reference any applicable rules or regulations or other governing provisions of the RVLG Board of Realtors® or MLS that relate to the operation of the lock box system. The lease agreement shall also provide that keys may not be used under any circumstances by anyone other than the key holder except as provided elsewhere in this statement of policy.

The RVLG MLS does not authorize unlicensed personal assistants, administrative and clerical staff, and individuals seeking licensure as real estate appraisers, who are under the direct supervision of a designated REALTOR®, or MLS participant, or their licensed designee, to hold a lock box key.

RVLG MLS will refuse to sell or lease lock box keys, may terminate existing key lease agreements, and may refuse to activate or reactivate any key held by an individual convicted of a felony or misdemeanor if the crime, in the determination of the association or MLS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

The RVLG Board of Realtors® or MLS may suspend the right of lock box key holders to use lock box keys following their arrest and prior to their conviction for any felony or misdemeanor which, in the determination of the Board or MLS, relates to the real estate business or which puts clients, customers, or other real estate professionals at risk.

Factors that can be considered in making such determinations include, but are not limited to:

- a. the nature and seriousness of the crime
- b. the relationship of the crime to the purposes for limiting lock box access
- c. the extent to which access (or continued access) might afford opportunities to engage in similar criminal activity
- d. the extent and nature of past criminal activity
- e. time since criminal activity was engaged in
- f. evidence of rehabilitation while incarcerated or following release and
- g. evidence of present fitness

No one shall be required to lease a key from the RVLG MLS except on a voluntary basis.

RVLG MLS will not lease keys to affiliate members.

The RVLG MLS Key Lease Agreements contains a liquidated damages provision to offset some or all of the costs in reestablishing the security of the system if it is determined that the security has been compromised through the negligence or fault of the key holder.

**Section 20.4 Maintain Records**

The MLS shall maintain current records as to all keys issued and in inventory.

**Section 20.5 Seller's Authority**

Lock boxes may not be placed on a property without written authority from the seller. This authority may be established in the listing contract or in a separate document created specifically for the purpose. Inclusion in MLS compilations cannot be required as a condition of placing lock boxes on listed property.

**Section 20.6 Security: Lost or Stolen Key**

The MLS shall charge key holders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the association. Upon receipt of notice, the association shall take any steps deemed necessary to re-secure the system.

**Section 20.7 Written Rules & Procedures**

The MLS shall adopt written, reasonable, and appropriate rules and procedures for administration of lock box systems which may include appropriate fines, not to exceed \$5,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the MLS and set forth in these rules and procedures. All key holders, whether MLS members or not, shall agree, as a condition of the key lease agreement, to be bound by the rules and procedures governing the operation of the lock box system.

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