

# **BYLAWS of the WEST PASCO Board of REALTORS, Incorporated**

**(Adopted date June 1998)**

**(Revised date October 2004)**

**(Revised date November 2005)**

**(Revised date November 2007)**

**(Revised date August 2009) Mandatory changes**

**(Revised date March 2017) Mandatory changes**

**(Revised date March 2020) Mandatory changes**

## **ARTICLE I - NAME**

**Section 1. Name.** The name of this organization shall be the West Pasco Board of REALTORS, Incorporated, hereinafter referred to as the "Board."

**Section 2. REALTORS.** Inclusion and retention of the Registered Collective Membership Mark REALTORS in the name of the Board shall be governed by the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS as from time to time amended.

## **ARTICLE II - OBJECTIVES**

The objectives of the Board are:

**Section 1.** To unite those engaged in the recognized branches of the real estate profession for the purpose of exerting a beneficial influence upon the profession and related interests.

**Section 2.** To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS.

**Section 3.** To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.

**Section 4.** To further the interests of home and other real property ownership.

**Section 5.** To unite those engaged in the real estate profession in this community with the Florida Association of REALTORS and the NATIONAL ASSOCIATION OF REALTORS, thereby furthering their own objectives throughout the state and nation and obtaining the benefits and privileges of membership therein.

**Section 6.** To designate, for the benefit of the public, individuals authorized to use the terms REALTOR and REALTORS as licensed, prescribed, and controlled by the NATIONAL ASSOCIATION OF REALTORS.

## **ARTICLE III - JURISDICTION**

**Section 1.** The territorial jurisdiction of the Board as a Member of the NATIONAL ASSOCIATION OF REALTORS is that portion of Pasco County Florida bounded on the N by the Hernando County Line; on the E by a line running N and S 3 miles E of Range 17E; on the S by the Pinellas County line and the Hillsborough County line; on the W by the Gulf of Mexico.

**Section 2.** Territorial jurisdiction is defined to mean:

(a) The right and duty to control the use of the terms REALTOR and REALTORS, subject to the conditions set forth in these Bylaws and those of the NATIONAL ASSOCIATION OF REALTORS, in return for which the Board agrees to protect and safeguard the property rights of the National Association in the terms.

#### **ARTICLE IV - MEMBERSHIP**

**Section 1.** There shall be six classes of Members as follows:

(a) **REALTOR® Members.** REALTOR® Members, whether primary or secondary shall be:

(1) Individuals who, as sole proprietors, partners, corporate officers, or branch office managers, are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, counseling, building, developing or subdividing real estate, and who maintain or are associated with an established real estate office in the state of Florida or a state contiguous thereto. All persons who are partners in a partnership, or all officers in a corporation who are actively engaged in the real estate profession within the state or a state contiguous thereto shall qualify for REALTOR® Membership only, and each is required to hold REALTOR® Membership (except as provided in the following paragraph) in a Board of REALTORS within the state or a state contiguous thereto unless otherwise qualified for Institute Affiliate Membership as described in Section 1(b) of Article IV.

In the case of a real estate firm, partnership, or corporation, whose business activity is substantially all commercial, only those principals actively engaged in the real estate business in connection with the same office, or any other offices within the jurisdiction of the board in which one of the firm's principals holds REALTOR membership, shall be required to hold REALTOR® membership unless otherwise qualified for Institute Affiliate Membership as described in Section 1 (b) of Article IV.

(2) Individuals who are engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers and are associated with a REALTOR® Member and meet the qualifications set out in Article V.

(3) **Franchise REALTOR® Member.** Corporate officers (who may be licensed or unlicensed) of a real estate brokerage franchise organization with at least one hundred fifty (150) franchisees located within the United States, its insular possessions, and the commonwealth of Puerto Rico, elected to membership pursuant to the provisions in the NAR Constitution and Bylaws. Such individuals shall enjoy all of the rights, privileges and obligations of REALTOR membership (including compliance with the Code of Ethics) except: obligations related to board mandated education, meeting attendance, or indoctrination classes or other similar requirements; the right to use the term REALTOR in connection with their franchise organization's name; and the right to hold elective office in the local board, state association and National Association.

(4) **Primary and Secondary REALTOR® Members.** An individual is a primary member if the Board pays state and National dues based on such Member. An individual is a secondary Member if state and National dues are remitted through another Board. One of the principals in a real estate firm must be a Designated REALTOR member of the Board in order for licensees affiliated with the firm to select the Board as their "primary" Board.

(5) **Designated REALTOR® Members.** Each firm (or office in the case of firms with multiple office locations) shall designate in writing one REALTOR Member who shall be responsible for all duties and obligations of Membership including the obligation to arbitrate pursuant to Article 17 of the Code of Ethics and the payment of Board dues as established in Article X of the Bylaws. The "Designated REALTOR" must be a sole proprietor, partner, corporate officer, or branch office manager acting on behalf of the firm's principal(s) and must meet all other qualifications for REALTOR® Membership established in Article V, Section 2, of the Bylaws.

**(b) Institute Affiliate Members.** Institute Affiliate members shall be individuals who hold a professional designation awarded by an Institute, Society, or Council affiliated with the NATIONAL ASSOCIATION OF REALTORS that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society or Council that confers the right to or hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR membership, subject to payment of applicable dues for such membership.

**(c) Affiliate Members.** Affiliate Members shall be real estate owners and other individuals or firms who, while not engaged in the real estate profession as defined in paragraphs (a) or (b) of this Section, have interests requiring information concerning real estate, and are in sympathy with the objectives of the Board.

**(d) Public Service Members.** Public Service Members shall be individuals who are interested in the real estate profession as employees of or affiliated with educational, public utility, governmental or other similar organizations, but are not engaged in the real estate profession on their own account or in association with an established real estate business.

**(e) Honorary Members.** Honorary Members shall be individuals not engaged in the real estate profession who have performed notable service for the real estate profession, for the Board, or for the public.

**(f) Student Members.** Student Members shall be individuals who are seeking an undergraduate or graduate degree with a specialization or major in real estate at institutions of higher learning, and who have completed at least two years of college and at least one college level course in real estate, but are not engaged in the real estate profession on their own account or not associated with an established real estate office.

## **ARTICLE V - QUALIFICATION and ELECTION**

### **Section 1. Application.**

**(a)** An application for membership shall be made in such manner and form as may be prescribed by the Board of Directors and made available to anyone requesting it. The application form shall contain among the statements to be signed by the applicant (1) that applicant agrees as a condition to membership to thoroughly familiarize himself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS, the Constitutions, Bylaws, and Rules and Regulations of the Board, the Florida Association and National Associations, and if elected a Member, will abide by the Constitutions and Bylaws and Rules and Regulations of the Board, Florida Association and National Associations, and if a REALTOR, Member, will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS including the obligation to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and as further specified in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS, as from time to time amended, and (2) that applicant consents that the Board, through its Membership Committee or otherwise, may invite and receive information and comment about applicant from any Member or other persons, and that applicant agrees that any information and comment furnished to the Board by any person in response to the invitation shall be conclusively deemed to be privileged and not form the basis of any action for slander, libel, or defamation of character. The applicant shall, with the form of application, have access to a copy of the Bylaws, Constitution, Rules and Regulations, and Code of Ethics referred to above.

### **Section 2. Qualification.**

**(a)** An applicant for REALTOR® Membership who is a sole proprietor, partner, corporate officer, or branch office manager of a real estate firm shall supply evidence satisfactory to the Membership Committee that he is actively engaged in the real estate profession, and maintains a current, valid real estate broker's or salesperson's license or is licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, has a place of business within the state or a state contiguous

thereto (unless a secondary member), has no record of recent or pending bankruptcy, has no record of official sanctions involving unprofessional conduct\*, agrees to complete a course of instruction covering the Bylaws and Rules and Regulations of the Board, the Bylaws of the State Association, and the Constitution and Bylaws and Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS, and shall pass such reasonable and nondiscriminatory written examination thereon as may be required by the Committee, and shall agree that if elected to membership, he will abide by such Constitution, Bylaws, Rules and Regulations, and Code of Ethics.

\*NO RECORD OF OFFICAL SANCTIONS INVOLVING UNPROFESSIONAL CONDUCT is intended to mean that the Board may only consider judgments within the past three (3) years of violations of (1) civil rights laws; (2) real estate license laws; (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities.

NOTE 2: Article IV, Section 2, of the NAR Bylaws prohibits Member Boards from knowingly granting REALTOR membership to any applicant who has unfulfilled sanction pending which was imposed by another Board or association of REALTORS for violation of the Code of Ethics.

(b) Individuals who are actively engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch office managers in order to qualify for REALTOR Membership, shall at the time of application, be associated either as an employee or as an independent contractor with a Designated REALTOR Member of the Board or a Designated REALTOR Member of another Board (if a secondary member) and must maintain a current, valid real estate broker's or salesperson's license or be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, shall complete a course of instruction covering the Bylaws and Rules and Regulations of the Board, the Bylaws of the Florida Association, and the Constitution and Bylaws and Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS, and shall pass such reasonable and nondiscriminatory written examinations thereon as may be required by the *Membership* Committee and shall agree in writing that if elected to membership he will abide by the Constitution, bylaws, and Rules and Regulations of the local Board, State Association and the National Association.

(c) The West Pasco Board of Realtors will also consider the following in determining an applicant's qualifications for REALTOR® membership:

1. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
2. Pending ethics complaints (or hearings)
3. Unsatisfied discipline pending
4. Pending arbitration requests (or hearings)
5. Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS

"Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (provided all other qualifications for membership have been satisfied). Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or if such matters are not resolved within six months from the date that provisional membership is approved. Provisional members shall be considered REALTORS and shall be subject to all of the same privileges and obligations of REALTOR membership.

If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which the applicant has made application) and will abide by the decision of the hearing panel.

### **Section 3. Elections.**

The Procedure for election to membership shall be as follows.

(a) The chief staff executive (or duly authorized designee) shall determine whether the applicant is applying for the appropriate class of membership. If the association has adopted provisional membership, applicants for REALTOR® membership may be granted provisional membership immediately upon submission of a completed application form and remittance of applicable association dues and any application fee. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of membership. Provisional membership is granted subject to final review of the application by the board of directors.

(b) If the board of directors determines that the individual does not meet all of the qualifications for membership as established in the association's Bylaws, or, if the individual does not satisfy all of the requirements of membership (for example, completion of a mandatory orientation program) within 240 days from the association's receipt of their application, membership may, at the discretion of the board of directors, be terminated. The board of directors shall vote on the applicant's eligibility for membership. If the applicant receives a majority vote of the board of directors, he/she shall be declared elected to membership and shall be advised by written notice.

(c) The board of directors may not reject an application without providing the applicant with advance notice of the findings, an opportunity to appear before the board of directors, to call witnesses on his/her behalf, to be represented by counsel, and to make such statements as he/she deems relevant. The board of directors may also have counsel present. The board of directors shall require that written minutes be made of any hearing before it or may electronically or mechanically record the proceedings.

(d) If the board of directors determines that the application should be rejected, it shall record its reasons with the chief staff executive (or duly authorized designee). If the board of directors believes that denial of membership to the applicant may become the basis of litigation and a claim of damage by the applicant, it may specify that denial shall become effective upon entry in a suit by the association for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the rejection violates no rights of the applicant. (Adopted 1/98, Amended 1/05)

(e) Designated REALTORS are obligated to inform the local board of any licensees, brokers or appraisers that are licensed with or affiliated with such DR within five days of licensure/affiliation. If the newly licensed/affiliated person chooses not to apply for REALTOR® membership, then the DR's personal dues will increase by the non-member assessment and will be due and payable to the board on the same time schedule outlined in Article X, Section 3.

### **Section 4. New Member Code of Ethics Orientation.**

Applicants for REALTOR® membership and provisional REALTOR® members (where applicable) shall complete an orientation program on the Code of Ethics of not less than two hours and thirty minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership or provisional members who have completed comparable orientation in another association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year or less.

Failure to satisfy this requirement within (240) days of the date of application (or, alternatively, the date that provisional membership was granted), will result in denial of membership application or termination of provisional membership.

### **Section 5. REALTOR® Code of Ethics Training.**

Effective January 1, 2019, through December 31, 2021 and for successive three year periods thereafter, each REALTOR® member of the association (with the exception of REALTOR® members granted REALTOR® Emeritus status by the National Association) shall be required to complete ethics training of not less than two (2) hours and thirty (30) minutes of instructional time. This requirement will be satisfied

upon presentation of documentation that the member has completed a course of instruction conducted by this or another REALTOR® association, the State Association of REALTORS® or the NATIONAL ASSOCIATION OF REALTORS®, which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any three year cycle shall not be required to complete additional ethics training until a new three year cycle commences.

Failure to satisfy the required periodic ethics training shall be considered a violation of a membership duty. Failure to meet the requirement in any three year cycle will result in suspension of membership for the first two months (January and February) of the year following the end of any three year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated.

#### **Discipline of REALTOR® Members.**

Any REALTOR® member of the association may be disciplined by the board of directors for violations of the Code of Ethics or other duties of membership, after a hearing as described in the *Code of Ethics and Arbitration Manual* of the association, provided that the discipline imposed is consistent with the discipline authorized by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS® as set forth in the *Code of Ethics and Arbitration Manual* of the National Association.

#### **Enforcement of the Code.**

The responsibility of the association and of association members relating to the enforcement of the Code of Ethics, the disciplining of members, and the arbitration of disputes, and the organization and procedures incident thereto, shall be governed by the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS, as amended from time to time, which is by this reference incorporated into these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law.

### **ARTICLE VI - PRIVILEGES and OBLIGATIONS**

**Section 1.** The privileges and obligations of Members, in addition to those otherwise provided in these Bylaws, shall be specified in this Article.

**Section 2.** Any Member of the Board may be reprimanded, fined, placed on probation, suspended, or expelled by the Board of Directors for a violation of these Bylaws and Board Rules and Regulations not inconsistent with these Bylaws, after a hearing as provided in the Code of Ethics and Arbitration Manual of the Board. Although Members other than REALTORS are not subject to the Code of Ethics nor its enforcement by the Board, such Members are encouraged to abide by the principles established in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS and conduct their business and professional practices accordingly. Further, Members other than REALTORS may, upon recommendation of the Membership Committee, or upon recommendation by a hearing panel of the Professional Standards Committee, be subject to discipline as described above, for any conduct, which in the opinion of the Board of Directors, applied on a nondiscriminatory basis, reflects adversely on the terms REALTOR or REALTORS, and the real estate industry, or for conduct that is inconsistent with or adverse to the objectives and purposes of the local Board, the State Association, and the NATIONAL ASSOCIATION OF REALTORS.

**Section 3.** Any REALTOR® Member of the Board may be disciplined by the Board of Directors for violations of the Code of Ethics or other duties of membership, after a hearing as described in the Code of Ethics and Arbitration Manual of the Board, provided that the discipline imposed is consistent with the discipline authorized by the Professional Standards Committee of the NATIONAL ASSOCIATION OF REALTORS as set forth in the Code of Ethics and Arbitration Manual of the National Association.

**Section 4.** Resignations of Members shall become effective when received in writing by the Board of Directors, provided, however, that if any Member submitting the resignation is indebted to the

Board for dues, fees, fines, or other assessments of the Board or any of its services, departments, divisions, or subsidiaries, the Board may condition the right of the resigning Member to reapply for membership upon payment in full of all such monies owed.

**Section 5.** If a member resigns from the association or otherwise causes membership to terminate with an ethics complaint pending, the complaint shall be processed until the decision of the association with respect to disposition of the complaint is final by this association (if respondent does not hold membership in any other association) or by any other association in which the respondent continues to hold membership. If an ethics respondent resigns or otherwise causes membership in all Boards to terminate before an ethics complaint is filed alleging unethical conduct occurred while the respondent was a REALTOR®, the complaint, once filed, shall be processed until the decision of the association with respect to disposition of the complaint is final. In any instance where an ethics hearing is held subsequent to an ethic respondent's resignation or membership termination, any discipline ratified by the Board of Directors shall be held in abeyance until such time as the respondent rejoins an association of REALTORS®.

(a) If a member resigns or otherwise causes membership to terminate, the duty to submit to arbitration continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR®.

**Section 6. REALTOR® Members.** REALTOR® Members, whether primary or secondary, in good standing whose financial obligations to the Board are paid in full shall be entitled to vote and to hold elective office in the Board; may use the terms REALTOR and REALTORS, which use shall be subject to the provisions of Article VIII; and have the primary responsibility to safeguard and promote the standards, interests, and welfare of the Board and the real estate profession.

(a) If a REALTOR® Member is a principal in a firm, partnership, or corporation and is suspended or expelled, the firm, partnership, or corporation shall not use the terms REALTOR or REALTORS in connection with its business during the period of suspension, or until readmission to REALTOR Membership, or unless connection with the firm, partnership, or corporation is severed, whichever may apply. The membership of all other principals, partners, or corporate officers shall suspend or terminate during the period of suspension of the disciplined Member, or until readmission of the disciplined Member, or unless connection of the disciplined Member with the firm, partnership, or corporation is severed, whichever may apply. Further, the membership of REALTORS other than principals who are employed by or affiliated as independent contractors with the disciplined Member shall suspend or terminate during the period of suspension of the disciplined Member or until readmission of the disciplined Member or until connection of the disciplined Member with the firm, partnership, or corporation is severed, or unless the REALTOR® Member (non-principal) elects to sever his connection with the REALTOR® and affiliate with another REALTOR® Member in good standing in the Board, whichever may apply. If a REALTOR® Member who is other than a principal in a firm, partnership, or corporation is suspended or expelled, the use of the terms REALTOR or REALTORS by the firm, partnership, or corporation shall not be affected.

(b) In any action taken against a REALTOR® Member for suspension or expulsion under Section 6(a) hereof, notice of such action shall be given to all REALTORS employed by or affiliated as independent contractors with such REALTOR Member and they shall be advised that the provisions in Article VI, Section 6(a) shall apply.

**Section 7. Institute Affiliate Members.** Institute Affiliate Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors consistent with the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS.

NOTE: Local associations established the rights and privileges to be conferred on Institute Affiliate Members except that no Institute Affiliate Member may be granted the right to use the term REALTOR, or the REALTOR LOGO; TO SERVE AS President of the local association; or to be a participant in the local association's Multiple Listing Service.

**Section 8. Affiliate Members.** Affiliate Members shall have rights and privileges and be subject to obligations prescribed by the Board of **Directors**.

**Section 9. Public Service Members.** Public Service Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors.

**Section 10. Honorary Members.** Honorary Membership shall confer only the right to attend meetings and participate in discussions.

**Section 11. Student Members.** Student Members shall have rights and privileges and be subject to obligations prescribed by the Board of Directors.

**Section 12. Certification by REALTOR.** "Designated" REALTOR Members of the Board shall certify to the Board during the month of October on a form provided by the Board, a complete listing of all individuals licensed or certified in the REALTOR's office(s) and shall designate a primary Board for each individual who holds membership. Designated REALTORS shall also identify any non-member licensees in the REALTOR's office(s) and if Designated REALTOR dues have been paid to another Board based on said non-member licensees, the Designated REALTOR shall identify the Board to which dues have been remitted. These declarations shall be used for purposes of calculating dues under Article X, Section 2(a) of the Bylaws. "Designated" REALTOR Members shall also notify the Board of any additional individual(s) licensed or certified with the firm(s) within 30 days of the date of affiliation or severance of the individual.

### **Section 13. Harassment.**

Any member of the association may be reprimanded, placed on probation, suspended or expelled for harassment of an association or MLS employee or Association Officer or Director after an investigation in accordance with the procedures of the association. As used in this Section, harassment means any verbal or physical conduct including threatening or obscene language, unwelcome sexual advances, stalking, actions including strikes, shoves, kicks, or other similar physical contact, or threats to do the same, or any other conduct with the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, intimidating or offensive work environment. The decision of the appropriate disciplinary action to be taken shall be made by the investigatory team comprised of the President, and President-elect and/or Vice President and one member of the Board of Directors selected by the highest ranking officer not named in the complaint, upon consultation with legal counsel for the association. Disciplinary action may include any sanction authorized in the association's Code of Ethics and Arbitration Manual. If the complaint names the President, President-Elect or Vice President, they may not participate in the proceedings and shall be replaced by the Immediate Past President or, alternatively, by another member of the Board of Directors selected by the highest ranking officer not named in the complaint. (Amended 5/03)

NOTE: Suggested procedures for processing complaints of sexual harassment are available online through <http://www.REALTOR.org>, or from the Member Policy Department.

## **ARTICLE VII - PROFESSIONAL STANDARDS and ARBITRATION**

**Section 1.** The responsibility of the Board and of Board Members relating to the enforcement of the Code of Ethics, the disciplining of Members, and the arbitration of disputes, and the organization and procedures incident thereto shall be governed by the Code of Ethics and Arbitration Manual of the **NATIONAL ASSOCIATION OF REALTORS**, as from time to time amended, which by this reference incorporated into these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law.

**Section 2.** It shall be the duty and responsibility of every REALTOR, REALTORS Member of this Board to abide by the Constitution and Bylaws and the Rules and Regulations of the Board, the Constitution and Bylaws of the Florida Association, the Constitution and Bylaws of the NATIONAL



ASSOCIATION OF REALTORS, and to abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS, including the duty to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and as further defined and in accordance with the procedures set forth in the Code of Ethics and Arbitration Manual of this Board as from time to time amended.

#### **ARTICLE VIII - USE of the TERMS REALTOR and REALTORS**

**Section 1.** Use of the terms REALTOR® and REALTORS by Members shall, at all times, be subject to the provisions of the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS and to the Rules and Regulations prescribed by its Board of Directors. The Board shall have the authority to control, jointly and in full cooperation with the NATIONAL ASSOCIATION OF REALTORS, use of the terms within its jurisdiction. Any misuse of the terms by members is a violation of a membership duty and may subject members to disciplinary action by the Board of Directors after a hearing as provided for in the associations Code of Ethics and Arbitration Manual.

**Section 2.** REALTOR® Members of the Board shall have the privilege of using the terms REALTOR and REALTORS in connection with their places of business within the state *or a state contiguous* thereto so long as they remain REALTOR Members in good standing. No other class of Members shall have this privilege.

**Section 3.** A REALTOR® Member who is a principal of a real estate firm, partnership, or corporation may use the terms REALTOR and REALTORS only if all the principals of such firm, partnership, or corporation who are actively engaged in the real estate profession within the state or a state contiguous thereto are REALTOR Members of the Board or Institute Affiliate Members as described in Section 1(b) of Article IV.

(a) In the case of a REALTOR® member who is a principal of a real estate firm, partnership, or corporation whose business activity is substantially all commercial, the right to use the term REALTOR or REALTORS shall be limited to office locations in which a principal, partner, corporate officer, or branch office manager of the firm, partnership, or corporation holds REALTOR membership. If a firm, partnership, or corporation operates additional places of business in which no principal, partner, corporate officer, or branch office manager holds REALTOR membership, the term REALTOR or REALTORS may not be used in any reference to those additional places of business.

**Section 4.** Institute Affiliate Members shall not use the terms REALTOR or REALTORS, nor the imprint of the emblem seal of the NATIONAL ASSOCIATION OF REALTORS.

#### **ARTICLE IX - STATE and NATIONAL MEMBERSHIPS**

**Section 1.** The Board shall be a Member of the NATIONAL ASSOCIATION OF REALTORS and the Florida Association of REALTORS. By reason of the Board's Membership, each REALTOR Member of the Member Board shall be entitled to membership in the NATIONAL ASSOCIATION OF REALTORS and the Florida Association of REALTORS without further payment of dues. The Board shall continue as a Member of the State and National Associations, unless by a majority vote of all of its REALTOR Members, decision is made to withdraw, in which case the State and National Associations shall be notified at least one month in advance of the date designated for the termination of such membership.

**Section 2.** The Board recognizes the exclusive property rights of the NATIONAL ASSOCIATION OF REALTORS in the terms REALTOR® and REALTORS. The Board shall discontinue use of the terms in any form in its name, upon ceasing to be a Member of the National Association, or upon a determination by the Board of Directors of the National Association that it has violated the conditions imposed upon the terms.

**Section 3.** The Board adopts the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS and agrees to enforce the Code among its REALTOR, Members. The Board and all of its Members agree to abide by the Constitution, Bylaws, Rules and Regulations, and policies of the National Association and the Florida Association of REALTORS.

## **ARTICLE X - DUES and ASSESSMENTS**

**Section 1. Application Fee.** The Board of Directors may adopt an application fee for REALTOR Membership in reasonable amount, not exceeding three times the amount of the annual dues for REALTOR Membership, which shall be required to accompany each application for REALTOR Membership and which shall become the property of the Board upon final approval of the application.

**Section 2. Dues.** The annual dues of Members shall be as follows:

**(a) REALTOR Members.** The annual dues of each Designated REALTOR Member shall be as from time to time determined by the Board of Directors plus an amount equal to as determined from time to time by the Board of Directors, times the number of real estate salespersons and licensed or certified appraisers who (1) are employed by or affiliated as independent contractors, or who are otherwise directly or indirectly licensed with such REALTOR Member, and (2) are not REALTOR Members of any Board in the state or a state contiguous thereto or Institute Affiliate Members of the Board. In calculating the dues payable to the Board by a Designated REALTOR Member, non-member licensees as defined in Section 2(a)(1) and (2) of this Article shall not be included in the computation of dues if the Designated REALTOR has paid dues based on said non-member licensees in another Board in the state or a state contiguous thereto, provided the Designated REALTOR notifies the Board in writing of the identity of the Board to which dues have been remitted. In the cases of a Designated REALTOR Member in a firm, partnership, or corporation whose business activity is substantially all commercial, any assessments for non-member licensees shall be limited to licensees affiliated with the Designated REALTOR (as defined in (1) and (2) of this paragraph) in the office where the Designated REALTOR holds membership, and any other offices of the firm located within the jurisdiction of this board.

**(1)** For the purpose of this Section, a REALTOR Member of a Member Board shall be held to be any Member who has a place or places of business within the state or a state contiguous thereto and who, as a principal, partner, corporate officer, or branch office manager of a real estate firm, partnership, or corporation, is actively engaged in the real estate profession as defined in Article III, Section 1, of the Constitution of the NATIONAL ASSOCIATION OF REALTORS. An individual shall be deemed to be licensed with a REALTOR if the license of the individual is held by the REALTOR, or by any broker who is licensed with the REALTOR, or by any entity in which the REALTOR has a direct or indirect ownership interest and which is engaged in other aspects of the real estate business (except as provided for in Section 2(a) (1) hereof) provided that such licensee is not otherwise included in the computation of dues payable by the principal, partner, corporate officer, or branch office manager of the entity.

A REALTOR with a direct or indirect ownership interest in an entity engaged exclusively in soliciting and/or referring clients and customers to the REALTOR for consideration on a substantially exclusive basis shall annually file with the association on a form approved by the association a list of the licensees affiliated with that entity and shall certify that all of the licensees affiliated with the entity are solely engaged in referring clients and customers and are not engaged in listing, selling, leasing, managing, counseling or appraising real property. The individuals disclosed on such form shall not be deemed to be licensed with the REALTOR filing the form for purposes of the Section and shall not be included in calculating the annual dues of the Designated REALTOR.

Membership dues shall be prorated for any licensee included on a certification form submitted to the association who during the same calendar year applies for REALTOR membership in the association. However, membership dues shall not be prorated if the licensee held REALTOR membership during the preceding calendar year.

**(b) REALTOR® Members.** The annual dues of REALTOR® Members other than the Designated REALTOR shall be as from time to time determined by the Board of Directors.

**(c) Institute Affiliate Members.** The annual dues of each Institute Affiliate Member shall be as established in Article II of the Bylaws of the NATIONAL ASSOCIATION OF REALTORS.

NOTE: The Institutes, Societies and Councils of the National Association shall be responsible for collecting and remitting dues to the National Association for Institute Affiliate Members (\$75.00). The National Association shall credit \$25.00 to the account of a local association for each Institute Affiliate Member whose office address is within the assigned territorial jurisdiction of that association, provided, however, if the office location is also within the territorial jurisdiction of a Commercial Overlay Board(COB), the \$25.00 amount will be credited to the COB, unless the Institute Affiliate Member directs that the dues be distributed to the other board. The National Association shall also credit \$25.00 to the account of state association for each Institute Affiliate Member whose office address is located within the territorial jurisdiction of the state association. Local and state associations may not establish any additional entrance, initiation fee or dues for Institute Affiliate Members, but may provide service packages to which Institute Affiliate Members may voluntarily subscribe.

**(d) Affiliate Members.** The annual dues of each Affiliate Member shall be as from time to time determined by the Board of Directors.

**(e) Public Service Members.** The annual dues of each Public Service Member shall be as from time to time determined by the Board of Directors.

**(f) Honorary Members.** Dues payable, if any, shall be at the discretion of the Board of Directors.

**(g) Student Members.** Dues payable, if any, shall be as from time to time determined by the Board of Directors.

**Section 3. Dues Payable.** Dues for all Members shall be payable annually in advance on the first day of January. Dues shall be computed from the first day of the quarter in which a Member is notified of election and shall be prorated for the remainder of the year.

**(a)** In the event a sales licensee or licensed or certified appraiser who holds REALTOR membership is dropped for nonpayment of Board dues, and the individual remains with the designated REALTOR's firm, the dues obligation of the "designated" REALTOR (as set forth in Article X, Section 2 (a)) will be increased to reflect the addition of a non-member licensee. Dues shall be calculated from the first day of the current fiscal year and are payable within 30 days of the notice of termination.

**Section 4. Nonpayment of Dues or Financial Obligations.** If dues, fees, fines, or other assessments including amounts owed to the Board or the Board's Multiple Listing Service are not paid within fifteen (15) days after the due date, the nonpaying Member is subject to suspension at the discretion of the Board of Directors. Thirty (30) days after the due date, membership of the nonpaying Member may be terminated at the discretion of the Board of Directors. However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the accuracy of the amount owed has been confirmed by the Board of Directors. A former Member who has had his membership terminated for nonpayment of dues, fees, fines, or other assessments duly levied in accordance with the provisions of these Bylaws or the provisions of other Rules and Regulations of the Board or any of its services, departments, divisions or subsidiaries may apply for reinstatement in a manner prescribed for new applicants for membership, after making payment in full of all accounts due as of the date of termination.

**Section 5. Deposit.** All monies received by the Board for any purpose shall be deposited to the credit of the Board in a financial institution or institutions selected by resolution of the Board of Directors.

**Section 6. Expenditures.** The Board of Directors shall administer the finances of the Board as stipulated in the budget approved by the Board of Directors and Budget Committee.

**Section 7.** Notice of Dues, Fees, Fines, Assessments, and Other Financial Obligations of Members. All dues, fees, fines, assessments, or other financial obligations to the Board or Board Multiple Listing Service shall be noticed to the delinquent Board Member in writing setting forth the amount owed and due date.

**Section 8.** The dues of REALTOR Members who are REALTOR Emeriti (as recognized by the National Association), Past Presidents of the National Association or recipients of the Distinguished Service Award shall be as determined by the Board of Directors.

## **ARTICLE XI - OFFICERS and DIRECTORS**

**Section 1. Officers.** The elected officers of the Board shall be: a President, a President Elect, a Secretary, Treasurer, and Immediate Past President. They shall be elected for terms of one year.

**Section 2. Duties of Officers.** The duties of the officers shall be such as their titles, by general usage, would indicate and such as may be assigned to them by the Board of Directors. It shall be the particular duty of the Secretary to keep the records of the Board and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS and the Florida Association of REALTORS.

**Section 3. Board of Directors.** The governing body of the Board shall be a Board of Directors consisting of the elected officers, and Six REALTOR Members of the Board. Directors shall be elected to serve for terms of three years in staggered terms; at each election as many Directors shall be elected as are required to fill vacancies.

### **Section 4. Election of Officers and Directors.**

(a) During the month of August before the annual election, a Nominating Committee of three REALTOR® Members and two active Past- Presidents shall be appointed by the President with the approval of the Board of Directors. The Nominating Committee shall select no more than two candidates for each office other than the office of President as outlined hereinafter, and no more than two candidates for each position to be filled on the Board of Directors. However, the office of President shall be filled by the President-Elect previously elected, without further nomination or election. The recommendation of the Nominating Committee shall be furnished electronically to each REALTOR® Member at least one week preceding the September Meeting. Additional Candidates for the Offices to be filled may be placed in nomination from the floor at the October Meeting. All nominations made as of the October Meeting shall be final. The Secretary shall send electronic notice of the final ballot to all REALTOR® Members within one week after the October Meeting.

(b) Voting for Officers and Directors shall be by mail or electronically. The election shall commence no more than four weeks and no less than two weeks prior to the annual meeting. Ballots, which shall be prepared by the Executive Officer, shall be furnished electronically to each REALTOR Member or mailed (but only upon request) and shall contain the names of all candidates and the offices for which they are nominated. For purposes of this SECTION, the term "mail" shall be deemed to include Regular U.S. Mail postage prepaid. (\*For purposes of this SECTION, the term "electronically" shall be deemed to include the posting of said ballots on the Board's Official website.) In order for a ballot to be eligible to be counted, it must be signed by the REALTOR Member and returned to the Office of the Board, either in person or by mail or electronically, but in any event, received by the Board Office by 5:00 PM of the day preceding the annual meeting. (\*\*Return of electronic ballot shall be by secured procedure approved by the Board of Directors.) All ballots properly received shall be secured by the Executive Officer. The Nominating Committee shall oversee the tabulation of all ballots, both paper and electronic, and the results will be announced at the annual meeting. Quorum requirements for the transaction of business as called for elsewhere in the Bylaws, shall be applicable to the election of Officers and Directors.

**Section 5. Vacancies.** Vacancies among the Officers and the Board of Directors shall be filled by a simple majority vote of the Board of Directors until the next annual election.

**Section 6. Removal of Officers and Directors.** In the event that an Officer or Director is deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure:

(a) A petition requiring the removal of an Officer or Director and signed by not less than one-third of the voting membership or a majority of all Directors shall be filed with the President, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service.

(b) Upon receipt of the petition, and not less than twenty (20) days or more than forty-five (45) days thereafter, a special meeting of the voting membership of the Board shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director, and to render a decision on such petition.

(c) The special meeting shall be noticed to all voting Members at least ten (10) days prior to the meeting and shall be conducted by the President of the Board unless the President's continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the meeting of the hearing by the Members. Provided a quorum is present, a three-fourths vote of Members present and voting shall be required for removal from office.

#### **Section 7. Qualifications of Officers and Directors.**

(a) There shall be no more than two (2) REALTORS members from the same company, firm or brokerage serving as an Officer or Director of the Board at any given time. In the event the office affiliation of an officer or member of the Board of Directors should change during his or her term of office in such a manner as to otherwise violate this proviso, then in said event, such person shall be allowed to continue to serve the remainder of his or her term of office.

(b) All Officers and Directors shall have been a Committee Chairman for a period of not less than one (1) year and a Member of the Board for a period of two (2) consecutive years immediately preceding his or her term of office unless said requirement is waived by two thirds (2/3) vote of the board of directors.

### **ARTICLE XII - MEETINGS**

**Section 1. Annual Meetings.** The annual meeting of the Board shall be held during November of each year, the date, place, and hour to be designated by the Board of Directors.

**Section 2. Meetings of Directors.** The Board of Directors shall designate a regular time and place of meetings. Absence from three regular meetings without an excuse deemed valid by the Board of Directors shall be construed as resignation. A quorum for the transaction of business by the Board of Directors shall consist of six (6) Directors.

**Section 3. Other Meetings.** Meetings of the Members may be held at other times as the President or the Board of Directors may determine, or upon the written request of at least 10% of the Members eligible to vote.

**Section 4. Notice of Meetings.** Written notice shall be given to every Member entitled to participate in the meeting at least one (1) week preceding all meetings. If a special meeting is called, it shall be accompanied by a statement of the purpose of the meeting.

**Section 5. Quorum.** A quorum for the transaction of business shall consist of 15% of the Members eligible to vote.

### **ARTICLE XIII - COMMITTEES**

**Section 1. Standing Committees.** The President shall appoint from among the REALTOR Members, subject to confirmation by the Board of Directors, the following standing committees:

Publicity & Advertising, Affiliates, Professional Standards, Grievance, Education, Political Affairs, Finance & Budget, Civic Affairs, Membership & RPAC

**Section 2. Special Committees.** The President shall appoint, subject to confirmation by the Board of Directors, special committees as deemed **necessary**.

**Section 3. Organization.** All committees shall be of such size and shall have duties, functions, and powers as assigned by the President or the Board of Directors except as otherwise provided in these Bylaws.

**Section 4. President.** The President shall be an ex-officio member of all standing committees and shall be notified of their meetings.

### **ARTICLE XIV - FISCAL and ELECTIVE YEAR**

**Section 1.** The fiscal and elective year of the Board shall be the Calendar year.

### **ARTICLE XV - RULES of ORDER**

**Section 1.** Robert's Rules of Order, latest edition, shall be recognized as the authority governing the meetings of the Board, its Board of Directors, and committees, in all instances wherein its provisions do not conflict with these Bylaws.

### **ARTICLE XVI - AMENDMENTS**

**Section 1.** These Bylaws may be amended by the REALTOR® Members in either of the following manners:

(a) By a majority vote of the members present and qualified to vote at any meeting at which a quorum is present, provided the substance of such proposed amendment or amendments shall have been plainly stated in the call for the meeting, except that the Board of Directors may, at any regular or special meetings of the Board of Directors at which a quorum is present, approve amendments to the bylaws which are mandated by NAR policy. Notice by mail (as defined in Article XI, Section 4(b) hereof) of all meetings at which such amendments are to be considered shall be mailed to every REALTOR Member by regular mail postmarked at least one week prior to the date of such meeting.

(b) By a majority vote of the members qualified to vote, with voting conducted in the same manner as provided for in these Bylaws in Article XI, SECTION 4(b) providing for balloting by mail. In the event these Bylaws are to be amended by the procedure set forth in this subsection, the Board of Directors shall first determine that the amendment or amendments are appropriate to be voted on by mail or electronically and shall then designate the appropriate deadlines for mailing and return or electronic return of ballots.

**Section 2.** Article IX may be amended only by a majority vote of all REALTOR® Members.

**Section 3.** Amendments to these Bylaws affecting the admission or qualification of REALTOR and Institute Affiliate Members, the use of the terms REALTOR and REALTORS, or any alteration in the territorial jurisdiction of the Board shall become effective upon their approval as authorized by the Board of Directors of the NATIONAL ASSOCIATION OF REALTORS.

## **ARTICLE XVII - DISSOLUTION**

**Section 1.** Upon the dissolution or winding up of affairs of this Board, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets to the Florida Association of REALTORS or, within its discretion, to any other non-profit tax exempt organization.

## **ARTICLE XVIII - MULTIPLE LISTING**

Multiple Listing Service Operated as a Separate Corporation Wholly-Owned by the Board

**Section 1. Authority.** The Board of REALTORS shall maintain for the use of its Members a Multiple Listing Service which shall be a lawful corporation of the state of Florida, all the stock of which shall be owned by the Board of REALTORS.

**Section 2. Purpose.** A Multiple Listing Service means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common data bases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

**Section 3. Governing Documents.** The Board of Directors shall cause any Multiple Listing Service established by it pursuant to this Article to conform its corporate charter, constitution, bylaws, rules, regulations, and policies, practices, and procedures at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the NATIONAL ASSOCIATION OF REALTORS.

**Section 4. Participation.** Any REALTOR® member of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of the principal, without further qualification, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.\*\* Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or

similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (Adopted 11/08)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a “Virtual Office Website” (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (Adopted 11/08)

- (a) A nonmember applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS Rules and Regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he will abide by such Rules and Regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by a Board Multiple Listing Service where access to such information is prohibited by law.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. “Actively” means on a continual and ongoing basis during the operation of the participant's real estate business. The “actively” requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law. (Adopted 11/08)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a “Virtual Office Website” (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a



participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (Adopted 11/08)

**Section 5. Access to Comparable and Statistical Information.** Board Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Board Members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the MLS Rules and Regulations. Board members who receive such information, either as a Board service or through the Board's MLS, are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the MLS or not.

**Section 6. Subscribers.** Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

**Section 1** A lockbox is a container affixed to a property containing a device to gain access to the property being marketed by a Participant in the MLS. Lockboxes are not security devices but are a device by which showing of properties is expedited. Participants in the MLS, their affiliated licensees, or certified, registered or licensed appraisers are authorized under certain conditions to open these lockboxes under terms specified by the listing broker.

**Section 2** The Minimum Security Measures for common Lockbox Systems of the NATIONAL ASSOCIATION OF REALTORS® as from time to time amended, are hereby adopted and made a part of these Policies and Procedures/Rules and Regulations. The terms and conditions of the SUPRA Information System Usage Agreement are hereby adopted and made a part of these Policies and Procedures/Rules and Regulations.

As an activity of the Association, every REALTOR®, non-principal broker, sales licensee, and licensed or certified appraiser affiliated with a REALTOR®, shall be eligible to hold a key subject to their execution of a lease agreement with the Association.

**Section 3** Failure to a SUPRA key as provided in the lease agreement, or any other breach or violation of the SUPRA Information System Usage Agreement shall subject the Participant and/or agent/user to the provisions of the terms and conditions of the Usage Agreement.

NAR Policy Statement 7.31 – Lock Box Security Requirement (See below)

#### **Statement 7.31: Lock Box 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 Board, its MLS, or on behalf of a Board by a recognized lock box vendor.

1. Any key, programmer, or other device (hereinafter referred to as "key") by which a lock box can be opened shall be nonduplicative. By "nonduplicative" 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.
2. 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 Boards, Multiple Listing Services, or other users in the vicinity. Surrounding Boards

and Multiple Listing Services shall also be contacted to determine whether the key's pattern, code, or configuration is currently in use.

3. Any lock box system shall be designated as either an activity of a Board of REALTORS® or a Board-owned and operated MLS.

If the lock box system is an activity of a Board of REALTORS®, then every REALTOR® and REALTOR-ASSOCIATE® and every non-principal broker, sales licensee and licensed or certified appraiser affiliated with a REALTOR®, shall be eligible to hold a key subject to their execution of a lease agreement with the Board. (Amended 11/96)

If the lock box system is an activity of a Board-owned and operated Multiple Listing Service, then 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.

Boards and Multiple Listing Services may require, as a matter of local determination, that 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 Board 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 keyholder except as provided elsewhere in this statement of policy. (Amended 2/98)

Boards and Multiple Listing Services may, at their discretion, 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 on the same terms and conditions as non-principal brokers and sales licensees. (Adopted 11/93)

Boards and Multiple Listing Services may 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 Board or MLS, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.

Boards or Multiple Listing Services may suspend the right of lock box keyholders 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 (Adopted 11/99)

Administration of a lock box system as an activity of a Board of REALTORS® may, at the discretion of the Board, be delegated to its Multiple Listing Service.

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

Boards and Multiple Listing Services may, at their discretion, lease keys to Affiliate Members of Boards who are actively engaged in a recognized field of real estate practice or in related fields. In such instances,

the lease agreement shall be signed by the keyholder and by a principal, partner, or corporate officer of the keyholder's firm. (Amended 11/97)

Key lease agreements may contain 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 keyholder. (Amended 11/97)

4. Boards shall maintain current records as to all keys issued and in inventory. There shall be an audit, at least annually, of all keys, whether issued or in inventory. This requirement may be satisfied by a physical inventory or, alternatively, by receipt of a statement signed by the keyholder and the designated REALTOR<sup>®</sup>, broker of record, or, in the case of an Affiliate Member, by a principal, partner, or corporate officer of the keyholder's firm, attesting that the key is currently in possession of the keyholder. This audit requirement does not apply to electronic lock box programmers or keypads which are sold or leased provided such devices may be deactivated within thirty (30) days. (Amended 5/99)

5. Boards shall require a substantial deposit from each keyholder in an amount that will establish an awareness of personal liability for such key. The initial deposit shall not be less than \$25 nor more than \$200. Deposits for a first replacement key lost or stolen shall be not less than two (2) times nor more than three (3) times the amount of the initial deposit and not less than three (3) times nor more than four (4) times the amount of the initial deposit for second or additional replacement keys. Deposits for keys shall be kept in a special account for refund upon return of the key unless forfeited upon loss of the key. Notwithstanding the foregoing, deposits charged Affiliate Members may be no more than twice the amounts established above.

If, at the time of inventory, a key is unaccounted for, or if a keyholder refuses or is unable to demonstrate that the key is within their physical control, then the key will be considered unaccounted for and any funds on deposit will be forfeited to the Board.

Deposits for electronic programmers or electronic keycards which are leased but which can be deactivated within thirty (30) days may be required as a matter of local determination. (Adopted 11/95)

6. 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.

7. Boards shall charge keyholders and their cosignatories with the joint obligation of immediately reporting lost, stolen, or otherwise unaccountable for keys to the Board. Upon receipt of notice, the Board shall take any steps deemed necessary to resecure the system.

8. Boards shall adopt written, reasonable, and appropriate rules and procedures for administration of lock box systems which may include appropriate fines, not to exceed \$1,000. Any issuing fees, recurring fees, or other administrative costs shall be established at the discretion of the Board and set forth in the rules and procedures. All keyholders, whether Board 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.

9. Notwithstanding the foregoing, Boards and Multiple Listing Services may sell electronic lock box programmers or keypads to MLS Participants and others eligible to hold lock box keys pursuant to these requirements provided that such devices may be deactivated, if necessary, within a reasonable period not to exceed thirty (30) days and that the Participant has authorized the sale in writing. In the event electronic lock box programmers or keypads are sold or leased, a designated REALTOR<sup>®</sup> principal or an office's broker of record may purchase or lease additional programmers or keypads to be issued on a temporary basis to other keyholders in the same office in the event their programmer or keypad becomes non-functional outside normal business hours or under circumstances where a replacement programmer or keypad is not reasonably available from the issuing Board or MLS. When a programmer or keypad is issued on a temporary basis, it shall be the responsibility of the REALTOR<sup>®</sup> principal or the broker of record to advise the Board or MLS in writing that the programmer or keypad has been issued, to whom, and

the date and time of issuance within forty-eight (48) hours. It shall also be the responsibility of the REALTOR® principal or the broker of record to advise the Board or MLS in writing within forty-eight (48) hours after possession of the previously issued programmer or keypad has been reassumed. (Adopted 4/95) (approved 3/15/04)

### **RULES AND REGULATIONS RELATING TO THE KEY HOLDER SERVICE**

**1. Possession of Key:** Each KEYHOLDER may possess **ONLY ONE KEY** at a time. If a Key is lost or requires replacement for any reason, the replacement cost for the Key shall be the replacement price set forth in the Lease.

**2. Current Update Code:** The Key has an update code that expires weekly to prohibit further use of the Key until a new current update code is obtained from SUPRA or the ADMINISTRATOR (WPBOR) (as defined in the Administration Agreement) and entered into the Key. Update codes shall be issued only to KEYHOLDERS in good standing with the ORGANIZATION. A KEYHOLDER is in good standing if he or she is in full compliance with all obligations related to the Service, including, without limitation, the Administrator's (WPBOR) Membership Terms and these Rules and Regulations.

**3. Security of Equipment:** It is necessary to maintain the security of each Key and the Personal Identification Number ("PIN") of each key to prevent the use of the Key by unauthorized persons. Each party in possession of a Key, whether such Key is being actively used or not, shall abide by the following conditions:

- a. To keep the Key in such party's possession or in a safe place at all times.
- b. Not to allow the PIN for the KEY to be attached to the Key for any purpose whatsoever or to be disclosed to any third party.
- c. Not to lend or otherwise transfer the Key to any other person or entity or permit any other person or entity to use the Key for any purpose whatsoever, whether or not such other person or entity is a real estate broker or salesperson.
- d. Not to duplicate the Key or allow any other person to do so.
- e. Not to assign, transfer or pledge the Key.
- f. Not to destroy, alter, modify, disassemble, or tamper with the Key or knowingly or unknowingly allow anyone else to do so.
- g. To notify the ADMINISTRATOR immediately in writing, and in any event within 48 hours, of a loss or theft of the Key or any Key Boxes, and of all circumstances surrounding such loss or theft.
- h. To complete and deliver to the ADMINISTRATOR a stolen Key affidavit (provided upon request by WPBOR) prior to and as a condition of the issuance of a replacement Key.
- i. To follow all additional security procedures as specified by the ADMINISTRATOR; and
- j. To safeguard the code for each Key Box from all other individuals and entities, whether or not they are authorized users of the Service.

**4. Authorization:** Before a Key Box is installed or used on any piece of real property, the prior written authorization to install or use a Key Box must be obtained from the property owner, as well as from any tenant(s) in possession of the property, if applicable. Extreme care shall be used to ensure that all doors to the listed property and the Key Box are locked. All owners and/or tenant(s) of real property shall be informed that the Key Box is not designed or intended as a security device.

**5. Statement of Administrative Procedures and Operating Standards:** EACH KEYHOLDER AND THE ORGANIZATION ACKNOWLEDGES THAT THE USE OF THE SERVICE IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THE ADMINISTRATION AGREEMENT AND THAT FAILURE OF SUPRA OR THE ADMINISTRATOR TO PERFORM ANY OF THEIR RESPECTIVE OBLIGATIONS UNDER THE ADMINISTRATION AGREEMENT MAY DETRIMENTALLY AFFECT SUCH PARTY'S USE OF THE SERVICE. EACH KEYHOLDER AND THE ORGANIZATION EXPRESSLY WAIVES ANY RIGHT TO EXERCISE ANY RIGHT OR REMEDY ARISING UNDER,

RELATING TO OR BY VIRTUE OF ANY DEFAULT BY ANY PERSON UNDER THE ADMINISTRATION AGREEMENT AND/OR UNDER ANY OTHER AGREEMENT EXECUTED AND DELIVERED IN CONNECTION WITH THE USE OR LEASING OF THE SERVICE. EACH KEYHOLDER AND THE ORGANIZATION FURTHER ACKNOWLEDGES AND AGREES THAT THE ADMINISTRATOR MAY EXERCISE ANY REMEDIES ANY OF THEM MAY HAVE UNDER THE ADMINISTRATION AGREEMENT.

**6. Acknowledgment:** Each party using a Key, Key Boxes or the Service hereby acknowledges that neither the Service, the Key Boxes nor the Keys, nor any other SUPRA product used in connection with the Service is a security system. The Service is a marketing convenience key control system, and as such, any loss of Keys or disclosure of Personal Identification Numbers compromises the integrity of the Service and each party agrees that it will use its best efforts to insure the confidentiality and integrity of all components of the Service.

**7. Misuse of Supra Key:** Any misuse of the Supra Key will be considered a violation of membership duties under WPBOR Bylaws.

- a. All key holders are strictly forbidden to lend their keys to any individuals for any reason.
- b. In the event that the key holder's misuse has been noticed to the Association, the following actions will apply:
  - (1) Notice will be given to the key holder of the apparent misuse, with the opportunity for the user to appear before the Board of Directors to show cause why his/her key privileges should not be suspended or terminated and a fine levied.
  - (2) The following penalties may be applied:

First offense: Fine up to \$500 and his/her key service may be turned off for a period of up to six months

Second offense: Fine up to \$1,000 and his/her key service to be terminated for up to three years
- c. WPBOR may refuse to sell a key or may terminate existing keys held by an individual convicted of a felony or misdemeanor if the crime, in the determination of the Board of Directors, relates to the real estate business or puts clients, customers, or other real estate professionals at risk.