

# REALTORS® ASSOCIATION OF INDIAN RIVER COUNTY

## BYLAWS

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## **ARTICLE I - NAME**

Section 1. Name: The name of this organization shall be the REALTORS® Association of Indian River County, Incorporated, hereafter referred to as the "Association".

Section 2. REALTORS®: Inclusion and retention of the Registered Collective Membership Mark REALTORS® in the name of the Association 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 Association 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 interest 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, these individuals authorized to use the term REALTOR® and REALTORS® as licensed, prescribed, and controlled by the NATIONAL ASSOCIATION OF REALTORS®.

## **ARTICLE III - JURISDICTION**

Section 1: The territorial jurisdiction of the Association as a member of the NATIONAL ASSOCIATION OF REALTORS® is Indian River County, Florida.

Section 2: Territorial jurisdiction is defined to mean:

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 Association agrees to protect and safeguard the property right 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 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 of Florida 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 an Association 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 Association 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 (amended 01/01)

(2) Individuals who are engaged in the real estate profession other than as sole proprietors, partners, or 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® Membership. Corporate officers (who may be licensed or unlicensed) of a real estate brokerage franchise organization with at least one hundred fifty (150) franchises 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 Association mandated education, meeting attendance, or indoctrination classes or similar requirements; the right to use the term REALTOR® in connection with their franchise organization's name; the right to hold elective office in the local Association, State Association and National Association.

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

(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 Association dues as established in Article X of the Bylaws. The "Designated REALTOR®" must be a sole proprietor, partner, corporate officer or branch 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 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 paragraph (a) or (b) of this Section, have interests requiring information concerning real estate, and are in sympathy with the objects of the Association. Affiliate Membership shall also be granted to individuals licensed or certified to engage in real estate practice who, if otherwise eligible, do not elect to hold REALTOR® membership in the Association, provided the applicant is engaged exclusively in a specialty of the real estate business other than the brokerage of real property.

(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 Association, 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 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 applications form shall contain among the statements signed by the applicant (1) that applicant agrees as a condition of membership to thoroughly familiarize himself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, the Constitution, Bylaws, and Rules and Regulations of the Association, the State and National Associations, and if elected a Member, will abide by the Constitution and Bylaws and Rules and Regulations of the Association, State and National Associations, and if a REALTOR®, 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 Association, 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 Association 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, or corporate officer or branch manager of a real estate firm shall supply evidence satisfactory to the Secretary-Treasurer 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 Association, 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 non-discriminatory written examinations 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 official sanctions involving unprofessional conduct is intended to mean that the Association may only consider:

A. judgments against the applicant within the past three (3) years of violating of (1) civil rights laws, (2) real estate laws, and (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities.

B. criminal convictions if (1) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted, and (2) no more than ten (10) years have elapsed since the date of the conviction or the release of the applicant from confinement imposed for that conviction, whichever is the later date.

\*\*No recent or pending bankruptcy is intended to mean that the applicant or any real estate firm in which the applicant is a sole proprietor, general partner, or corporate officer is not involved in any pending bankruptcy or insolvency proceedings or, has not been adjudged bankrupt in the past three (3) years. If a bankruptcy proceeding as described above exists, membership may not be rejected unless the Association establishes that its interests and those of its members and the public could not be adequately protected by requiring that the bankrupt applicant pay cash in advance for Association and MLS fees for up to one (1) year from the date that membership is approved or from the date that the applicant is discharged from bankruptcy (whichever is later). In the event that an existing member initiates bankruptcy proceedings, the member may be placed on a "cash basis" from the date that bankruptcy is initiated until one (1) year from the date that the member has been discharged from bankruptcy.

**NOTE 2:** Article IV, Section 2, of the NAR Bylaws prohibits Member Boards from knowingly granting REALTOR® or REALTOR-ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another Board or Association of REALTORS® for violation of the Code of Ethics. (Adopted 1/01)

(b) Individuals who are actively engaged in the real estate profession other than as sole proprietors, partners, corporate officers, or branch 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 Association, or a Designated REALTOR® Member of another Association (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 Association, 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 non-discriminatory written examinations thereon as may be required by the Association, and shall agree in writing that if elected to membership he will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and by the Constitution, Bylaws, Rules and Regulations of the local Association, the State Association and the

NATIONAL ASSOCIATION.

- (c) The Association will also consider the following in determining an applicant's qualifications for REALTOR® membership:
1. All 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
  6. Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm. (Amended 6/2006)

"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 (except for violations of the Code of Ethics; See Article V, Section 2(a) Note 2) 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 (6) 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 the 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. (Amended 01/01)

Section 3. Election: The procedure for election to membership shall be as follows:

(a) Applicants for REALTOR® membership shall 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 subsequent review of the application by the Board of Directors. 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 ninety (90) days from the association's receipt of their application, membership may, at the discretion of the Board of Directors, be terminated.

(b) Dues shall be computed from the date of application and shall be non-refundable unless the association's Board of Directors terminates the individual's membership in accordance with subsection (a) above. In such instances, dues shall be returned to the individual less a prorated amount to cover the number of days that the individual received association services and any application fee.

(c) The Board of Directors may not terminate any provisional membership without providing the provisional member with advance notice, an opportunity to appear before the Board of Directors, to call witnesses on his behalf, to be represented by counsel, and to make such statements, as he 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 provisional membership should be terminated, it shall record its reasons with the Secretary. If the Board of Directors believes that termination of provisional

membership may become the basis of litigation and a claim of damage by a provisional member, it may specify that termination shall become effective upon entry in a suit by the Board for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the termination violates no rights of the individual.

#### 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 ninety (90) days of the date of application (or, alternatively, the date that provisional membership was granted), will result in denial of the membership application or termination of provisional membership.

Note: Orientation programs must meet the learning objectives and minimum criteria established from time to time by the NATIONAL ASSOCIATION OF REALTORS®. (Adopted 1/01)

#### Section 5. Continuing Member Code of Ethics Training.

Effective January 1, 2001, through December 31, 2004, and for successive four year periods thereafter, each REALTOR® member of the association shall be required to complete quadrennial ethics training of not less than two hours and thirty 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 association, the State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS®, or any other recognized educational institution or provider 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 four year cycle shall not be required to complete additional ethics training until a new four year cycle commences.

Failure to satisfy this requirement shall be considered a violation of a membership duty for which REALTOR® membership shall be suspended until such time as the training is completed.  
(Adopted 1/01)

Members suspended for failing to meet the requirement for the first four (4)-year cycle (2001-2004) will have until December 31, 2005 to meet the requirement. Failure to meet the requirement by that time will result in automatic termination of membership. Failure to meet the second (2005-2008) cycle and subsequent four (4) year cycles will result in suspension of membership for the first two months (January and February) of the year following the end of the any four (4)-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. (Adopted 01/01 revised 05/05)

#### Section 6. Status Changes.

(a) A REALTOR® who changes the conditions under which he holds membership shall be required to provide written notification to the Association within thirty (30) days. A REALTOR® (non-principal) who becomes a principal in the firm with which he has been licensed or, alternatively, becomes a principal in a new firm which will be comprised of REALTOR® principals may be required to satisfy any previously unsatisfied membership requirements applicable to REALTOR (principal) Members but shall, during the period of transition from one status of membership to another, be subject to all of the privileges and

obligations of a REALTOR® (principal). If the REALTOR® (non-principal) does not satisfy the requirements established in these Bylaws for the category of membership to which they have transferred within thirty (30) days of the date they advised the Association of their change in status, their new membership application will terminate automatically unless otherwise so directed by the Board of Directors. A REALTOR® who is transferring their license from one firm comprised of REALTOR® principals to another firm comprised of REALTOR® principals shall be subject to all of the privileges and obligations of membership during the period of transition. If the transfer is not completed within thirty (30) days of the date the Association is advised of the disqualification with the current firm, membership will terminate automatically unless otherwise so directed by the Board of Directors.

Note: The Board of Directors, at its discretion, may waive any qualification which the applicant has already fulfilled in accordance with the Association's Bylaws.

(b) Any application fee related to a change in membership status shall be reduced by an amount equal to any application fee previously paid by the applicant.

(c) Dues shall be prorated from the first day of the quarter in which the member is notified of election by the Board of Directors and shall be based on the new membership status for the remainder of the year.

## **ARTICLE VI - PRIVILEGES AND OBLIGATIONS**

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

Section 2: Any member of the Association may be reprimanded, fined, placed on probation, suspended, or expelled by the Board of Directors for a violation of these Bylaws and Association 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 Association, 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 Secretary-Treasurer, 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 non-discriminatory 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 Association, the State Association, and the NATIONAL ASSOCIATION OF REALTORS®.

Section 3: 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.

Section 4: Resignations of Members shall become effective when received in writing by the Board of Directors, provided, however, that if the Member submitting the resignation is indebted to the Association for dues, fees, fines or other assessments of the Association or any of its services, departments, divisions, or subsidiaries, the Association 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 that Board of Directors may condition the right of the resigning Member to

reapply for membership upon the applicant's certification that he/she will submit to the pending ethics proceeding and will abide by the decision of the hearing panel.

(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:

(a) REALTOR® Members in good standing, whether primary or secondary, whose financial obligations to the Association are paid in full shall be entitled to vote and hold elective office in the Association; 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, interest, and welfare of the Association and the real estate profession.

(b) If a REALTOR® Member is a sole proprietor in a firm, a partner in a partnership or an officer in a 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, or management control is relinquished, 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, or unless the REALTOR® who is suspended or expelled removes himself from any form or degree of management control of the firm for the term of the suspension or until readmission to membership, whichever may apply. Removal of an individual from any form or degree of management control must be certified to the Association by the Member who is being suspended or expelled and by the individual who is assuming management control, and the signatures of such certification must be notarized. In the event the suspended or expelled Member is so certified to have relinquished all form or degree of management control of the firm, the membership of other partners, corporate officers, or other individuals affiliated with the firm shall not be affected, and the firm, partnership or corporation may continue to use the terms REALTOR® and REALTORS® in connection with its business during the period of suspension or until the former Member is admitted to membership in the Association. The foregoing is not intended to preclude a suspended or expelled Member from functioning as an employee or independent contractor, providing no management control is exercised. Further, the membership of REALTORS® other than principals who are employed 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 unless connection of the disciplined Member with the firm, partnership, or corporation is severed, or management control is relinquished, 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 Association, whichever may apply.

If a REALTOR® Member other than a sole proprietor in a firm, partner in a partnership, or an officer of a corporation is suspended or expelled, the use of the terms REALTOR® and REALTORS® by the firm, partnership or corporation shall not be affected.

(c) If any action taken against a REALTOR® Member for suspension or expulsion under Section 6(b) 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(b) 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 establish 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<sup>®</sup>, REALTOR-ASSOCIATE<sup>®</sup>, or the REALTOR<sup>®</sup> 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<sup>®</sup>. "Designated" REALTOR<sup>®</sup> Members of the Association shall certify to the Association during the month of July, on a form provided by the Association, a complete listing of all individuals licensed or certified with the REALTOR<sup>®</sup>'s firm(s) and shall designate a primary Association for each individual who holds membership. These declarations shall be used for purposes of calculating dues under Article X, Section 2(a) of the Bylaws. "Designated" REALTOR<sup>®</sup> shall also identify any non-member licensees in the REALTOR<sup>®</sup> office(s) and if designated REALTOR<sup>®</sup> dues have been paid to another Association on said non-member licensees, the designated REALTOR<sup>®</sup> shall identify the Association to which dues have been remitted. "Designated" REALTOR<sup>®</sup> Members shall also notify the Association of any additional individual(s) licensed or certified with the firm(s) within thirty (30) days of the date of affiliation or severance of the individual.

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

Section 1. 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<sup>®</sup>, as from time to time amended, 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.

(a) Fees and Deposits shall be in the amounts determined by the Board of Directors.

Section 2. It shall be the duty and responsibility of every REALTOR<sup>®</sup> of this Association to abide by the Constitution and Bylaws and Rules and Regulations of the Association, the Constitution and Bylaws of the State Association, the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>, and to abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>, 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 Association as from time to time amended.

Section 3. The responsibility of the Association and Association members relating to the enforcement of the Code of Ethics, the disciplining of members, the arbitration of disputes and the organization and procedures incident thereto, shall be consistent with cooperative professional standards enforcement agreement entered into by the Association, which by reference is made part of these bylaws.

## **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 Association 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 Association's Code of Ethics and Arbitration Manual. (Amended 06/2006)

Section 2. REALTOR® Members of the Association 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 or Institute Affiliate Member may use the terms REALTOR® and REALTORS® only if all of 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 or Institute Affiliate Members.

(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. (Amended 1/01)

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 Association shall be a Member of the NATIONAL ASSOCIATION OF REALTORS® and the Florida Association of REALTORS®. By reason of the Association's Membership, each REALTOR® Member of the Member Association shall be entitled to membership in the NATIONAL ASSOCIATION OF REALTORS® and the Florida Association of REALTORS® without further payment of dues. The Association 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 Association recognizes the exclusive property rights of the NATIONAL ASSOCIATION OF REALTORS® in the terms REALTOR® and REALTORS®. The Association 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 Association adopts the Code of Ethics of the NATIONAL ASSOCIATION OF

REALTORS® and agrees to enforce the Code among its REALTOR® Members. The Association and all of its Members agree to abide by the Constitution, Bylaws, Rules and Regulation, and policies of the National Association and the Florida Association of REALTORS®.

## ARTICLE X - DUES, FEES AND FINANCES

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

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

(a) REALTOR® Members. The dues of each Designated REALTOR® Member shall be in such amount as established annually by the Board of Directors, plus an additional amount 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) who are not REALTORS® Members of any Association in the state or a state contiguous thereto or Institute Affiliate members of the Association. In calculating the dues payable to the Association 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 Association in the state or a state contiguous thereto, provided the Designated REALTOR® notifies the Association in writing of the identity of the Association to which dues have been remitted. In the case 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 Association. \* (Amended 1/01)

(1) For the purpose of this Section, a REALTOR® Member of a Member Association 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 or corporate officer or branch manager of a real estate firm, partnership or corporation, is actively engaged in the real estate business as defined in Article III, Section I, 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 an 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, or corporate officer 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 this 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® or REALTOR-ASSOCIATE®

membership in the association. However, membership dues shall not be prorated if the licensee held REALTOR® or REALTOR-ASSOCIATE® membership during the preceding calendar year.

(b) The annual dues of REALTOR® Member other than the Designated REALTOR® shall be in such amount as established annually 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 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 associations 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 fees 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 determined by the Board of Directors.

(e) Public Service Members. The annual dues of each Public Service Member shall be 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 at the discretion of the Board of Directors.

Section 3. Dues payable. Dues for all Members shall be payable annually in advance on the first day of September. Dues shall be computed from the date of application and granting of provisional membership.

(a) In the event a sales licensee or licensed or certified appraiser who holds REALTOR® membership is dropped for nonpayment of Association 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 thirty (30) days of the notice of termination.

Section 4. Non-payment of Financial Obligations. If dues, fees, fines and other assessments including amounts owed to the Association or the Association's Multiple Listing Service are not paid within one (1) month after the due date, 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 Association 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 Association for any purpose shall be deposited to the credit of the Association in a financial institution or institutions selected by resolution by the Board of Directors.

Section 6. Expenditures. The Board of Directors shall administer the finances of the Association but shall not incur any obligation in excess of \$5,000 in any single transaction which was not budgeted and approved without authorization by vote of a majority of the REALTOR® Members present at a properly called meeting. The Board of Directors shall maintain a reserve fund equal to or greater than one half of the preceding year's operating budget.

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 Association or Association Multiple Listing Service shall be noticed to the delinquent Association Member in writing setting forth the amount owed and due date.

Section 8. Returned Checks - Checks returned to the Association by a bank for any reason, including but not limited to insufficient funds or account closed will result in a fee to be charged to the maker of the check in an amount to be determined from time to time by the Board of Directors.

Section 9. 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.

Section 10. Annual Audit. The Board of Directors shall have an annual certified audit performed by an outside accounting firm.

## **ARTICLE XI - OFFICERS AND DIRECTORS**

Section 1. Officers. The elective officers of the Association shall be: a President, a President-Elect (who shall have served at least one year on the Board of Directors prior to election to this post), a Vice-President, and a Secretary-Treasurer. 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 Association 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 Association shall be a Board of Directors consisting of the elective Officers and seven (7) REALTOR® Members of the Association. The immediate Past President shall serve one (1) year as a Director. The six (6) remaining Directors shall be for terms of two (2) years, except that at organization, one half of the elected Directors shall be elected for terms of one and two years, respectively, or for lesser terms as may be necessary to complete the first fiscal year. Thereafter as many Directors shall be elected each year as are required to fill vacancies. A Director may not be elected for succeeding two-year terms without a one (1) year interval in between.

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

(a) Approximately twelve (12) weeks prior to the opening of the voting poll for the election, a form letter will be sent to all members eligible to serve under Article XI, Section 3, asking them to indicate if they are willing to serve and hold office if elected and to return the form to the Association Office within ten (10)

days.

(b) Approximately ten (10) weeks prior to the opening of the voting poll for the election, a Nominating Committee of at least five (5) REALTOR® Members shall be appointed by the President with the approval of the Board of Directors. The chairman shall be a past president and other members are current or past officers, directors or committee chairs. After reviewing the forms returned the Nominating Committee shall select one or more candidates for each officer position (keeping in mind that the President Elect shall have served at least one year on the Board of Directors) and as many or more candidates as there are Director positions to be filled. Resumes of qualifications of candidates shall be sent to each REALTOR® member at least four (4) weeks prior to the opening of the voting poll for the election.

(c) Additional candidates for the vacancies to be filled may be placed in nomination by a petition signed by at least fifteen percent (15%) of the REALTOR® Members. The petition shall be filed with the Executive Officer at least two (2) weeks prior to the opening of the voting poll for the election. The Executive Officer shall send notice of such additional nominations to all REALTOR® Members before the opening of the voting poll for the election.

(d) The voting poll for the election of Officers and Directors shall open at the June General Membership Meeting and will remain open through the Annual Meeting. Ballots will be counted and results announced prior to the adjournment of the Annual Meeting. Election shall be by ballot and all votes shall be cast in person. The ballot shall contain the names of all candidates and the positions for which they are nominated. The nomination for the position of President will contain only the name of the prior years 1st Vice President-President Elect unless (1) the Member who holds this position is unable to assume the Presidency the following year; (2) as provided in 4c; or (3) the Nominating Committee majority vote determines the President Elect to be unqualified to act as President.

(e) The President, with the approval of the Board of Directors, shall appoint an election committee of three REALTOR® Members to conduct the election. The officer candidate who receives the highest number of the total votes cast shall be declared elected. Director candidates receiving the highest number of votes, equal in number to the number of vacancies to be filled, shall be declared elected, with two year terms being filled first. In case of a tie vote, the issue shall be determined by lot.

Section 5. Vacancies. Vacancies among the Officers and the Board of Directors shall be filled by the Board of Directors until the next annual election.

Section 6. The Board of Directors shall be empowered to appoint such non-voting Officers as an Executive Officer, or other Officers, Agents or Employees, at such remuneration for such power and duties as the Board of Directors may determine and prescribe.

Section 7. Removal of Officers and Directors. In the event that an Officer or Director is deemed to be unable, unsuitable or 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 33-1/3 percent 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 subject thereof is deemed disqualified from further service.

(b) Upon receipt of the petition, and not less than 20 days or more than 45 days thereafter, a special meeting of the voting Membership of the Association shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director who is the subject of the petition 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 Association 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 of the Members. Provided a quorum is present, a three-fourths vote of Members present and voting, shall be required for removal from office.

## **ARTICLE XII - MEETINGS**

Section 1. Annual Meetings. The annual meeting of the Association shall be held during July of each year; the day, 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 meeting. Absence from two (2) meetings per calendar year without an excuse deemed valid by the Board of Directors shall be construed as resignation there from. Special meetings may be called at any time by the President or a majority of the Directors. Notice of such special meetings shall be given to all Directors at least forty-eight (48) hours in advance.

Section 3. Other Meetings. Meetings of the Members may be held at such other times as the President or the Board of Directors may determine, or upon the written request of at least ten percent (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, 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 fifteen percent (15%) of the Members eligible to vote.

## **ARTICLE XIII - COMMITTEES**

Section 1. Committees. The President shall appoint, subject to confirmation by the Board of Directors, special and standing committees as deemed necessary.

Section 2. Organization. All committees shall be of such size and shall have such duties, functions and powers as may be assigned to them by the President or the Board of Directors, except as otherwise provided in these Bylaws. All committees shall make written reports to the Board of Directors. The action of all committees shall be subject to approval of the Board of Directors.

Section 3. 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 Association shall be October 1 to September 30.

## **ARTICLE XV - RULES OF ORDER**

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

## ARTICLE XVI - AMENDMENTS

### Section 1.

(a) These Bylaws may be amended by a majority vote of the REALTOR® Members qualified to vote at any meeting at which a quorum is present, provided the substance of such proposed amendment or amendments shall be plainly stated in the call for the meeting.

(b) Voting for the proposed amendment(s) shall take place at the called meeting, the day of the called meeting and through the following six (6) calendar days.

(c) If an amendment is offered from the floor, which, in the opinion of the presiding officer, does not change the substance or direction of the proposed Bylaws amendment, such amendment may be voted on and, if approved would need no further review by the Board of Directors.

(d) If an amendment is offered from the floor which, in the presiding officer's opinion, changes the substance or direction of the proposed amendment, then the proposed amendment and amendment from the floor shall be remanded to the Bylaws Committee for review and recommendation to the Board of Directors.

(e) Further action by the Board of Directors shall follow the procedures of Section 1(a) above

Section 2. Notice of all meetings at which amendments are to be considered shall be sent to every Member eligible to vote at least one (1) week prior to the meeting.

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 Association 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 Association, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets within its discretion to any non-profit tax-exempt organization.

## ARTICLE XVIII - MULTIPLE LISTING

Section 1. Authority. The Board of REALTORS® shall maintain for the use of its members a Multiple Listing Service, which shall be subject to the Bylaws of the REALTORS® Association and such Rules and Regulations as may be hereinafter adopted.

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

Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

Section 3. Participation. Any REALTOR<sup>®</sup> Member of this or any other Member Association, who is a principal, partner, or corporate officer or branch manager acting on behalf of the Principal, without further qualification shall be eligible to participate in the Multiple Listing Service upon agreeing 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 "Membership" or "Participation" unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. \*\*Use of information developed by or published by an Association Multiple Listing Service is strictly limited to the activities authorized under a Participant's 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.\* (Amended 11/08)

Note: 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 on-going 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 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.

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 on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)

(\* ) Note: When there is more than one principal in a real estate firm, the chief principal officer of the firm or "designated" REALTOR<sup>®</sup> is defined as the MLS Participant. Brokers or salespersons other than principals are not considered "Participants" in the Service, but have access to and use of the Service through the principal(s) with whom they are affiliated.

a) A non-member 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 Secretary-Treasurer 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 covering the MLS Rules and Regulations, 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 Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including any non-member fee differential, as from time to time established. Under no circumstances is any individual or firm 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 the Association's Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) and unauthorized uses are prohibited.

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 broker or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participants' 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.

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 the participation is sought. This requirement does not permit an MLS to deny participation to a participant or a 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.

\*No record of official sanctions involving unprofessional conduct is intended to mean that the MLS 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.

\*\*No recent or pending bankruptcy is intended to mean that the applicant or any real estate firm in which the applicant is a sole proprietor, general partner, or corporate officer is not involved in any pending bankruptcy or insolvency proceedings or, has not been adjudged bankrupt in the past three (3) years. If a bankruptcy proceeding as described above exists, participation may not be rejected unless the MLS establishes that its interests and those of its Participants and the public could not be adequately protected by requiring that the bankrupt applicant pay cash in advance for MLS fees for up to one (1) year from the date that participation is approved or from the date that the applicant is discharged from bankruptcy (whichever is later). In the event that an existing Participant initiates bankruptcy proceedings, the Participant may be placed on a "cash basis" from the date that bankruptcy is initiated until one (1) year from the date that the Participant has been discharged from bankruptcy.

Section 4. Supervision. The activity shall be operated under the supervision of the Multiple Listing Committee, in accordance with the Rules and Regulations, subject to approval of the Board of Directors.

Section 5. Appointment of Committee. The President shall appoint, subject to confirmation by the Board of Directors, a Multiple Listing Committee. All members of the committee shall be Participants in

Multiple Listing, except, at the option of the local Association, REALTORS® affiliated with Participants may be appointed to serve in such numbers as determined by the local Association. The committee members so named shall serve three-year terms, the original appointments being divided between one year, two-year and three-year terms. The Chairman shall be designated by the President.

Section 6. Vacancies. Vacancies in unexpired terms shall be filled as in the case of original appointees.

Section 7. Attendance. Any committee member who fails to attend two successive regular or special meetings of the committee, without excuse acceptable to the Chairman of the committee, shall be deemed to have resigned from the committee and the vacancy shall be filled as herein provided for original appointments.

Section 8. Subscribers. Subscribers (or users) of the MLS include non-principle brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

## **ARTICLE XIX - LOCK BOXES & MEMBER KEY CARDS**

Section 1. Keyholders. An Association approved vendor, whose lock box system is compliant with and meets all of the security measures and requirements as specified by the National Association of Realtors may sell lock boxes and lease a lock box key, card or key access to all REALTOR® members in a local association in any state under universal access to services rights. At no time shall there be more than one approved vendor or active lock box system. REALTOR® applicants may lease an electronic key or electronic key access and may purchase electronic lock boxes on a provisional basis until their Membership is approved by the Board of Directors and they are duly inducted into the Association. If the REALTOR® is not approved for membership the REALTOR® shall immediately return the leased electronic key or electronic key access to the Association. A numbered electronic box key or electronic key access shall be provided to REALTORS® and to licensed brokers, sales persons and licensed or certified appraisers affiliated with REALTOR® members only when a electronic lock box key or electronic key access lease agreement is executed and on file with the Association or Vendor.

Each member is authorized to receive only one electronic lock box key or electronic key access for their personal use. An activation fee is required for each lock box key or key access.

Each electronic lock box key or electronic key access lease agreement shall be held on file at the Association or Vendor's office until the keyholder returns the leased electronic key or electronic key access. If an electronic lock box key or electronic key access is lost, the keyholder shall be required to submit a signed notarized statement acknowledging that the key is lost and despite a diligent search, the key cannot be found and pay the appropriate replacement fees as specified in the electronic lock box key or electronic key access lease agreement.

A lock box may be sold to and an electronic lock box key or electronic key access may be leased to new REALTOR® applicants when submitting their application for Association membership provided they have paid all appropriate fees and dues. However, if the applicant fails to attend the Orientation class and become a duly inducted Member within 90 days of application, the applicant must immediately return the leased electronic lock box key or electronic key access and relinquish all other lock box and electronic key privileges. The formal operational agreements between the vendor and the REALTORS® Association of Indian River County, lock box security requirements and denial and revocation rights are stated in the Association's Policy and Procedures Manual.

If the lockbox system is an activity of an association of REALTORS®, then every REALTOR® 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 Association.

No one shall be required to lease a key from the association except on a voluntary basis. 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\_complications cannot be required as a condition of placing lockboxes on listed property.\_

Section 2. Fines. All keyholders, 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. Failing to do so, the keyholder shall be fined \$100 for the first offense, \$250 for the second offense, and \$500 for the third offense. The key holder may be required to appear before the Board of Directors after the third offense.

#### **ARTICLE XX INDEMNIFICATION**

1. Every Director and every Officer of the Corporation shall be indemnified by the corporation against all expenses and liabilities, including legal fees reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a Director or Officer of the corporation, whether or not he is a Director or Officer at the time such expenses are incurred, except when the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that in the event of a settlement, indemnification will apply only in the event that the Board of Directors approves such settlement and reimbursement as being in the best interests of the corporation. The foregoing right of indemnification will be in addition to and not exclusive of all other rights which such Director or Officer may be entitled.