

**BY-LAWS  
OF  
NORTHEAST SOUTH  
DAKOTA ASSOCIATION  
OF REALTORS**

**(adopted MAY 6, 2014)**

**BYLAWS of the Northeast South Dakota  
Association of REALTORS, Incorporated  
(Adopted May 6, 2014)**

**ARTICLE I - NAME**

**Section 1. NAME.** The name of this organization shall be the Northeast South Dakota Association of REALTORS, Incorporated, hereinafter 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 of 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 South Dakota 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 Association as a Member of the NATIONAL ASSOCIATION OF REALTORS is:

Set forth by the Bylaws of the SOUTH DAKOTA ASSOCIATION OF REALTORS as all of Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts Counties.

**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 further in these Bylaws and those of the NATIONAL ASSOCIATION OF REALTORS in return for which the Association 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 South Dakota 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 Association of REALTORS within the State of South Dakota or a state contiguous thereto unless otherwise qualified for Institute Affiliate Membership as described in Section I (b) of Article IV.

~~\*\*\*If a Principal of an Agency/Firm becomes (a)/(the) member of the Northeast Association of Realtors, each licensee practicing real estate in South Dakota of the agency/firm must also join the Association, obtain the prescribed orientation and abide by the bylaws and rules and regulations.~~

In the case of a real estate firm, partnership, or corporation, whose business activity is substantially all commercial, only those principals actively 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 hold REALTOR membership, shall be required to hold REALTOR membership unless otherwise qualified for Institute Affiliate Membership as described in Section I(b) of Article IV. (Amended 1/05)

**Note:** REALTOR Members may obtain membership in a "secondary" Association in another state.

**(2) Non Sole Proprietors.** - 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 Membership** - 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, 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 other similar requirements; the right to use the term REALTORS in connection with their franchise organization's name; and the right to hold elective office in the local association, state association and National Association. (Adopted 1/96)

**(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 a real estate firm must be a Designated REALTOR member of the Association in order for licensees affiliated with the firm to select the Association 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 (or mediate if required by Association) 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 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. (Amended 11/11)

**(b) Institute Affiliate Members.** - Institute Affiliate Members shall be individuals who hold a professional designation 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 or REALTOR-ASSOCIATE

membership, subject to payment of applicable dues for such membership. (Amended 01/02)

**(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 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 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 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 the applicant agrees as a condition to membership to thoroughly familiarize himself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS, the Constitutions, Bylaw, and Rules and Regulations of the Board, the State and National Associations, and if elected a Member, will abide by the Constitutions and Bylaws and Rules and Regulations of the Association, State and National Association, and if a REALTOR member, will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS including the obligation to arbitrate (or mediate if required by the Association) 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. (Amended 11/11)

## **Section 2. Qualifications**

**(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 Association through its Membership Committee that he is actively engaged in real estate profession, and maintain 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 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. (Amended 01/05)

(\* ) 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, corporate officer, or branch office manager, 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 members 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.

(\*\*) 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 violations of (1) civil rights laws; (2) real estate license laws; (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the court of other lawful authorities.
- (b) criminal convictions if (1) crime was punishable by death or imprisonment in excess of one year under the law under which applicant was

convicted and (2) no more than 10 years have elapsed since the date of the conviction or release of applicant from confinement imposed for that conviction, whichever is the later date. (Amended 05/07)

**Note 1:** One or more of the requirements for REALTOR Membership set forth above in Article V, Section 2(a) may be deleted at the Association's discretion. However, Associations may NOT adopt membership qualifications more rigorous than specified in the Membership Qualification Criteria for REALTOR Membership approved by the Board of Directors of the National Association.

**Note 2.** Article IV, Section 2, of the NAR Bylaws prohibits Members 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 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 Association or a Designated REALTOR Member of another Board or Association (if a secondary member) and must maintain a current, valid real estate broker's, broker associate's, or salesperson's license or be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, has no record of official sanctions involving unprofessional conduct, 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 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 such Constitution, Bylaws, Rules and Regulations and the Code of Ethics.

**(c)** The Association 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 this or any other association within the past three (3) years.
2. Pending ethics complaints (or hearings).
3. Unsatisfied discipline pending
4. Pending arbitration request (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 applicant's

firm.

“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 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. (Amended 11/09).

### **Section 3. Election.**

The procedure for election to membership shall be as follows:

**(a)** Applicants for REALTOR (and REALTOR-ASSOCIATES, where applicable) 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 (or REALTOR-ASSOCIATES) 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 180 days from the associations 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 President and Association Executive. 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 Association for a declaratory judgment by a court of competent jurisdiction of a final judgment declaring that the termination violates no rights of the individual. (Adopted 01/98; Amended 01/05)

#### **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 180 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. REALTOR 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 (with exception of REALTOR members granted REALTOR Emeritus status by the National 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 the required periodic ethics training shall be considered a violation of a membership duty for which REALTOR membership shall be suspended until such time as the training is completed. Failure to meet the requirements for the second (2005 through 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 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; Amended 11/08)

**Section 6. Status Changes.**

(a) A REALTOR who changes the conditions under which he/she holds membership shall be required to provide written notification to the Association within 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 fulfill 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 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 (or REALTOR-ASSOCIATE, where applicable) 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 30 days of the date the Association is advised of the disaffiliation with the current firm, membership will terminate automatically unless otherwise so directed by the Board of Directors. (Amended 01/98) (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 month 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. (Amended 01/05)

**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 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 consistent with these Bylaws, after a hearing as provided in the Code of Ethics and Arbitration Manual of the Association. Although Members other than REALTORS are neither 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 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 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 any 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 (or to mediate if required by the Association) continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR. (Amended 01/00 and 11/11)

**Section 6. REALTOR Members.** - REALTOR Members, whether primary or secondary, in good standing whose financial obligations to the Association are paid in full shall be entitled to vote and to 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, interests, and welfare of the Association and the real estate profession.

(a) 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, 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 Association, 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 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, REALTOR-ASSOCIATE, 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. (Amended 01/02).

**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 Association shall certify to the Association during the month of JANUARY on a form provided by the Association, a complete listing of all individuals licensed or certified in the Realtor's office(s) and shall designate a primary Association 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 Association based on said non-member licensees, the Designated REALTOR shall identify the Association 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 Association 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 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 or President-elect, 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.

**Note:** Suggested procedures for processing complaints of harassment are available online through <http://www.REALTOR.org> or from the Member Policy Department. (Amended 5/08)

## **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, 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.

**Section 2.** It shall be the duty and responsibility of every REALTOR Member of this Association to abide by the Constitution and Bylaws and the Rules and Regulations of the Association, the Constitution and Bylaws of the State Association, the Constitution and Bylaws of the NATIONAL ASSOCIATION OF REALTORS, and to abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REAL TORS, 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 of 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 the cooperative professional standards enforcement agreement entered into by the Association, which by this reference is made a 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 5/06)

**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. (Amended 01/96)

**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 of South Dakota or a state contiguous thereto are REALTOR Members of the Association or Institute Affiliate; members as described in Section 1(b) of Article IV.

**(a)** In the case of a REALTOR member who is 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, or 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 SOUTH DAKOTA 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 SOUTH DAKOTA ASSOCIATION OF REALTORS without further payment of dues (refer to option below). 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 Regulations, and policies of the National Association and the South Dakota 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 Association upon final approval of the application. (Amended 01/02)

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

**(a) REALTOR Members** - The annual dues of each Designated REALTOR Member shall be in such amount as established annually by the Board of Directors, plus an additional amount to be established annually 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 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 (1) and (2) of this paragraph 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/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 1/05)

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 of South Dakota (Amended 6/11 )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 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 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)( I) 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 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, renting, 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.

The exemption of any licensee included on the certification form shall automatically be revoked upon the individual being engaged in real estate licensed activities (listing, selling, leasing, renting, managing, counseling, or



appraising real property) other than referrals, and dues for the current fiscal year shall be payable.

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. (Amended 11/09)

**(b) REALTOR Members** - The annual dues of REALTOR Members other than the Designated REALTOR shall be in such amount as established annually by the Board of Directors. (Amended 01/05)

**(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~~) (\$105). The National Association shall credit ~~\$25~~ \$35 to the account of the local association for each Institute Affiliate member whose office address is within the assigned territorial jurisdiction of a Commercial Overlay Board (COB), the ~~\$25~~ \$35 amount will be credited to the COB, unless the Institute Affiliate member directs that the dues be distributed to the other association. The National Association shall also credit ~~\$25~~ \$35 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. (Amended 11/2013 ~~4/02~~)

**(d) Affiliate Members** - The annual dues of each Affiliate Member shall be in such amount as established annually by the Board of Directors. (Amended 01/05)

**(e) Public Service Members** - The annual dues of each Public Service Member shall in such amount as established annually by the Board of Directors. (Amended 01/05)

**(f) Honorary Members** - Dues payable, if any, shall be at the discretion of the Board of Directors in such amount as established annually by the Board of Directors. (Amended 01/05)

**(g) Student Members** - Dues payable, in any, shall be at the discretion of the Board of Directors in such amount as established annually by the Board of Director (Amended 01/05)

**Section 3. Dues Payable** - Dues for all Members shall be payable annually in advance on the 1st day of January. Dues for new members shall be computed from the first day of the month in which a member is notified of election and shall be prorated for the remainder of the year. (Amended 01/05)

(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) and 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 Financial Obligations** - If dues, fees, fines, or 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 is subject to suspension at the discretion of the Board of Directors. Two (2) months after the due date, membership of the nonpaying Member may be terminated at the discretion of the Board of Directors. Three (3) months after the due date, membership of the nonpaying Members shall automatically terminate unless within that time the amount due is paid. Exceptions to these guidelines for payment of assessments will be considered on an individual basis by the Board of Directors upon the request of an individual Member.

However, no action shall be taken to suspend or expel a Member for nonpayment of disputed amounts until the Board of Directors has confirmed the accuracy of the amount owed. 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 the date of termination.

(a) After February 1st, a fine of \$50.00 per month will be charged to all Members with delinquent dues payable to the Association.

**Section 5. Deposits and Expenditures** - Deposits and expenditures of funds shall be in accordance with policies established by the Board of Directors. (Amended 01/05)

**Section 6. Financial Obligations** - Notices of dues, fees, fines, assessments, or other financial obligations (current or delinquent) of Members due and owing to the Association or Association's Multiple Listing Service shall be in writing setting forth the amount owed and due date.

**Section 7. Special Category Members Dues** - The dues of REALTOR Members who are REALTOR Emeriti (as recognized by the National Association), Past Presidents and

past Treasurers of the National Association or recipients of the Distinguished Service Award shall be as determined by the Board of Director (Amended 11/2013)

**Note:** A Member Association's dues obligation to the National Association is reduced by an amount equal to the amount which the Association is assessed for a REALTOR Member, times the number of REALTOR Emeriti (as recognized by the National Association), Past Presidents and past Treasurers of the National Association, and recipients of the Distinguished Service Award of the National Association who are REALTOR Members of the Association. The dues obligation of such individuals to the local Association should be reduced to reflect the reduction in the Association's dues obligation to the National Association. The Association may, at its option, choose to have no dues requirement for such individuals except as may be required to meet the Association's obligation to the State Association with respect to such individuals. Member Associations should determine whether the dues payable by the Association to the State Association are reduced with respect to such individuals. It should be noted that this does not affect a "designated" REALTOR's dues obligation to the Association with respect to those licensees employed by or affiliated with the "designated" REALTOR who are not Members of the local Association. (Amended 11/2013)

## **ARTICLE XI – OFFICERS AND DIRECTORS**

**Section 1. Officers.** - The elected officers of the Association shall be: a President, President-Elect; a Secretary, and a Treasurer. The Secretary and Treasurer may be the same person. They shall be elected for terms of one year. (Amended 09/12)

**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 Association Executive to keep the records of the Association and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS and the SOUTH DAKOTA ASSOCIATION OF REALTORS. (Amended 01/05)

**Section 3. Board of Directors.** - The governing body of the Association shall be a Board of Directors consisting of the elected officers (President, President-Elect and Secretary-Treasurer), the immediate Past President of the Association, 3 State Directors, MLS Committee Chairperson and at least 2 elected REALTOR Members of the Association. Any local Members who are also State Officers of the South Dakota Association of REALTORS will also be ex-officio members of the Board of Directors. In the event that an individual qualifies for more than one position of the Board of Directors, additional REALTOR Members shall be elected to complete the nine (9) member Board. Member directors shall be elected to serve for terms of two years, except that at organization, one-half of elected Member 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. (Amended 10/10)

(a) Term Limits – No director shall serve for more than two consecutive three year terms. (Amended 5/05)

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

(a) At least two (2) months before the annual election, a Nominating Committee of 3 REALTORS Members shall be appointed by the President with the approval of the Board of Directors. The Nominating Committee shall select one candidate for each office and one candidate for each place to be filled on the Board of Directors. The report of the Nominating Committee shall be mailed or where permitted by State law, electronically transmitted to each Member eligible to vote at least three weeks preceding the election. Additional candidates for the offices to be filled may be placed in nomination by petition signed by at least 20% of the REALTOR Members eligible to vote. The petition shall be filed with the Association Executive at least two weeks before the election. The Association Executive shall send notice of such additional nominations to all Members eligible to vote before the election.

(b) The election of Officers and Directors shall take place at 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 offices for which they are nominated.

(c) The President, with the approval of the Board of Directors, shall appoint an Election Committee of 3 REALTOR Members to conduct the election. 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 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 Association 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 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 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 – Chief Staff Executive.** - There shall be a Chief Staff Executive, appointed by the Board of Directors, who shall be the Chief Staff Executive officer of the Association. The Chief Staff Executive shall have the authority to hire, supervise, evaluate and terminate other staff, if any, and shall perform such other duties as prescribed by the Board of Directors. (Amended 01/05) (This position can also be referred to as Association Executive”)

## **ARTICLE XII – MEETINGS**

**Section 1. Annual Meetings.** - The annual meeting of the Association shall be held the First Tuesday of October of each year, the date, place, and hour to be designated by the Board of Directors. (Amended 06/10)

**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.

**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 25% of the Members eligible to vote.

**Section 6. Electronic Transaction of Business.** - To the fullest extent permitted by law, the Board of Directors or membership may conduct business by electronic means. (Amended 01/05)

**Section 7. Action Without Meeting** - Unless specifically prohibited by the articles of incorporation, any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the directors. The consent shall be evidenced by one or more written approvals, each of which sets for the action taken and bears the signature of one or more directors. All the approvals evidencing the consent shall be delivered to the Administration Executive to be filed in the corporate records. The action taken shall be effective when all the directors have approved the consent unless the consent specifies a different effective date. (Amended 01/05)

## **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.

- \*Multiple Listing Service
- \* Programs
- \* Legislative/Government Affairs
- \* Public Relations/Community Service
- \* Finance
- \*Administrative/By-Laws
- \*Awards
  - ROTY
  - Rising Star
  - Achievement
- \* Education
- \*Nominating
- \*RPAC
- \*Social

NOTE: Other standing committees which may be listed under this section include, but are not limited to REALTOR Protection, Equal Opportunities, International, Commercial, Affordable Housing, etc. (Amended 1/11).

It is understood that the Northeast South Dakota Association of REALTORS does not offer a grievance committee or professional standards committee as those functions are handled directly by the South Dakota Association of REALTORS. (Amended 06/2014)

**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.

**Section 5. Action Without Meeting -.** Any committee may act by unanimous consent in writing without a meeting. The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and bears the signature of one or more of the members of the committee. (Adopted 01/05)

**Section 6. Attendance by Telephone.** - Members of a committee may participate in any meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall be at the discretion of the President and shall constitute presence at the meeting. (Adopted 01/05)

#### **ARTICLE XIV – FISCAL AND ELECTIVE YEAR**

**Section 1.** The fiscal year of the Association shall be January 1 to December 31.

**Section 2.** The elective year of the Association shall be December 1 to November 30. (Amended 10/28/10)

#### **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 Association, 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 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 be plainly stated in the call for the meeting, except that the Board of Directors may, at any regular or special meeting of the Board of Directors at which a quorum is present, approve amendments to the Bylaws which are mandated by NAR policy.

**Section 2.** Notice of all meetings at which amendments are to be considered shall be mailed or e-mailed 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 qualifications 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 of this Association, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets to the SOUTH DAKOTA ASSOCIATION OF REALTORS or, within its discretion, to any other nonprofit tax exempt organization.

## **ARTICLE XVIII – MULTIPLE LISTING**

**Section 1. Authority** - The Association of REALTORS shall maintain for the use of its Members a Multiple Listing Service which shall be subject to the Bylaws of the Association of REALTORS and such rules and regulations as may be hereinafter adopted.

**Section 2. Purpose** - A Multiple Listing Service is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals 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 procuring cause of the sale (or lease). (Amended 11/04)

**Section 3. Participation** - Any REALTOR of this or any other Association who is a principal, partner, or corporate officer, or branch manager acting on behalf of the principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in Multiple Listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. \*However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license, 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 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 by or published by an Association Multiple Listing Service where access to such information is prohibited by law. (Amended 11/08)

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 services 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)

\*Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (30) days after access has been provided.

**Note:** Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR (principal) membership in an Association. However, if the Association wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established.

\*\*Generally, Associations of REALTORS, when there is more than one Principal in a real estate firm, defined the chief principal officer of the firm as the MLS "Participant". If each Principal is defined as a "Participant," then each shall have a separate vote on MLS matters. 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.

**Section 4. Supervision** - The activity shall be operated under the supervision of the Multiple Listing Committee, in accordance with the Association rules and regulations, subject to approval of the Board of Directors of the Northeast South Dakota Association of REALTORS.

**Section 5. Appointment of Committee** - The position of Chairperson of the MLS Committee shall be appointed by the President of the NESD Association of REALTORS and said Chairperson will serve for a one-year term. In addition, if the NESD Association of REALTORS President so wishes, a Co-Chairperson may also be appointed to assist with this committee. Said Co-Chairperson shall also serve for a one-year term. (Amended 10/5/10)

The other members of the committee shall be appointed by the President of the NESD Association of REALTORS and shall consist of one member from each member office. (Amended 6/26/08).

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

**Section 7. Attendance** - Any Committee Member who fails to attend three (3) consecutive regular or special meetings of the Committee, without excuse acceptable to the Chairperson of the Committee, may be deemed to have resigned from the Committee. If the member has been deemed to have resigned, and the vacancy shall be filled as herein provided for original appointees.

Because of the cost of travel, leniency should be shown to those members who do not reside in the immediate Watertown area.

If a member who has or is deemed to have resigned has no replacement to fill his/her vacancy, then there will be no member from that firm on the Committee, thus that firm will not have any voting rights in Committee business. (Amended 5/22/08)

**Section 8 Access to Comparable and Statistical Information** - Association 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 the Association Members and individuals affiliated with Association 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. Association members who receive such information, either as a Association service or through the MLS, are subject to the applicable provisions of the MLS rules and regulations whether they participate in the MLS or not.

**Section 9 - Subscribers** - Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

Where the terms subscriber or user are used in connection with a multiple listing service owned or operated by an association of REALTORS, they refer to non-principal brokers,

sales licensees, and licensed and certified real estate appraisers affiliated with an MLS Participant.

### **STATEMENTS OF MEMBERSHIP POLICY RELATED TO IMPLEMENTATION OF ASSOCIATION OF CHOICE**

That, effective upon approval by the Board of Directors, the following statements of membership policy and amendments to the Model Association Bylaws to implement the Association of choice proposal be adopted.

The primary Association of affiliation elected by a REALTOR must be in the state where the REALTOR is licensed and maintains his/her principal place of business. Licensees affiliated with a REALTOR firm may choose as their "primary" Association any Association in the state of South Dakota where the firm maintains a "Designated" REALTOR. Membership shall be available in a Secondary Association on terms and conditions no more stringent than the requirements established in the Association Bylaws for REALTOR and (REALTOR ASSOCIATE where applicable) membership. The privileges of membership shall be the same including the right to vote and hold office. Membership will be granted to individuals who hold REALTOR or REALTOR-ASSOCIATE membership in their primary Association without any requirement that the Designated REALTOR they are licensed or affiliated with hold membership in the secondary Association. However, MLS services will only be available if the Designated REALTOR participates in the MLS.

The Association dues shall not include a national allocation since NAR dues have been paid through the member's primary Association. A state allocation may only be included if the member's primary Association is located in a different state.

REALTORS shall be entitled to purchase services from Associations other than their primary Association without the necessity of holding membership in those Associations. Service fees will be determined by the individual Associations. However, the Association may require that a REALTOR Principle be licensed in the state as a condition of MLS participation. (Adopted 2/94)(Amended 11/96)

### **CONCERNING ASSOCIATION OF CHOICE ACROSS STATE LINES**

That the membership choices currently provided under Association of Choice be expanded across state lines as follows:

Members may join a primary Association across contiguous state lines. State association membership would be in the state where primary Association membership is held. To become effective July 1, 1996, with optional local Association adoption sooner. (Adopted 11/95)

## **PORTABILITY OF MEMBERSHIP RECORDS (FILES)**

In order to facilitate timely processing of applications for membership and to assist associations in determining an applicant's qualification for REALTOR or REALTOR-ASSOCIATE membership, associations shall, based on a request from another association, share information about current or former members. Minimum "core" member information shall include:

1. Previous applications for membership.

All final findings of Code of Ethics violations and violations of other membership duties within the past three (3) Years (when available) Pending complaints alleging violations of the Code of Ethics or alleging violations of other membership duties Incomplete or (pending) disciplinary measures Pending arbitration requests (or hearings) Unpaid arbitration awards or unpaid financial obligations to the association or its MLS.

An association may, at its discretion, consider information received from other associations when determining whether an applicant satisfies the association's membership requirements as established in the association's bylaws (not to exceed NAR's Membership Qualification Criteria). (Adopted 2/96)

## **CLARIFICATION OF THE TERM "PRINCIPAL"**

The term "principal" as used in the NAR Constitution and Bylaws and in other relevant policies, includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of principals of a real estate firm. (Adopted 11/96) ,

## **SECONDARY MEMBERSHIP IN A BOARD/ASSOCIATION**

When a member has joined a primary association and paid local, state, and national dues, secondary membership may be held in a local association in another state (provided the applicant meets all of the qualifications for membership) without holding membership in that state association, or alternatively, secondary membership may be held directly in the state association without holding membership in a local association in that state. (Adopted 11/96)

## **MEMBERSHIP REQUIREMENTS RELATED TO MULTIPLE OFFICE LOCATIONS**

When considering an applicant for REALTOR membership who is a Principal in a real estate firm, associations have an obligation to determine that all of the principals of the

real estate firm who are actively engaged in the real estate business in the state of South Dakota are either applying for or already hold REALTOR membership (or Institute Affiliate membership, if applicable) in a board or association. (Adopted 11/96)

\*Note: The Northeast South Dakota Association of REALTORS requires that a real estate branch office be actively manned with a Principle or designated member and located within the Northeast South Dakota Association designated jurisdiction.

If an association (local, state, national) is notified by another association that a REALTOR member has an office location elsewhere in the state that is not functioning as a "REALTOR office" (i.e. licensees affiliated with the office are not members or are not accounted for under the DR dues formula) the association where the REALTOR holds primary membership shall be responsible, in cooperation with the state and national associations, for ensuring compliance with applicable membership policies (i.e. that said licensees hold membership in the REALTOR's primary association- or some other association in the state where the firm maintains a designated REALTOR presence or that dues have been paid to an association based on non-member licensees affiliated with the office. (Adopted 11/96)

Dated this 6th day of May, 2014.

BY: /s/ Lynn Morris  
President

WITNESSED

/s/ Carla Roby  
Vice President

/s/ Dorette Clark  
Secretary/Treasurer

/s/ Roxanne Hardie  
Association Executive