



# BYLAWS

Of the Las Cruces Association of REALTORS®, Inc.

LCAR Board Approved January 19, 2022

NAR Approved: February 4, 2022

# Bylaws - Effective February 4, 2022

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# Bylaws of the Las Cruces Association of REALTORS®, Inc.

NAR Approved February 4, 2022

## Article I - Name

**Section 1. Name.** The name of this organization shall be the Las Cruces 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 for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.

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

**Section 5.** To unite those engaged in the real estate profession in this community with the New Mexico Association of REALTORS® ("NMAR") 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:

**Dona Ana County, New Mexico**

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**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 rights of the National Association in the terms.

### Article IV – Membership

**Section 1.** There shall be six (6) classes of members as follows:

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

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 New Mexico 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 an association of REALTORS® within the state or a state contiguous thereto, unless otherwise qualified for Institute Affiliate Membership.

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.

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.

**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, 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 other similar requirements; the right to use the term REALTOR® in connection with their franchise organization's name; and the right to hold elective office in the local association, state association and National Association.

**Primary and Secondary REALTOR® Members.** An individual is a primary member if the association pays state and National dues 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.

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**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 the association) pursuant to Article 17 of the Code of Ethics and the payment of association dues. 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.

**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® or REALTOR-ASSOCIATE® membership, subject to payment of applicable dues for such membership.

**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.

**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.

**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.

**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

An application for membership shall be made in such manner and form as may be prescribed by the board of directors and made available to anyone requesting it. The application form shall contain among the statements to be signed by the applicant (1) that applicant agrees as a condition to membership to thoroughly familiarize himself/herself with the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, the Constitutions, 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® member, will abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® including the

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obligation to arbitrate (or to 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.

### Section 2. Qualification

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 or otherwise, that he/she is actively engaged in the real estate profession, and maintains a current, valid real estate broker's or associate broker'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/she will abide by such Constitution, Bylaws, rules and regulations, and Code of Ethics.

\* If the applicant or the applicant's real estate firm is named as a debtor in such bankruptcy proceeding, membership may not be denied unless the Board establishes that its interests and those of its members and the public could not be adequately protected by requiring that the applicant pay cash in advance for association dues and MLS fees for up to one (1) year from the date that membership is approved. 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.

\*\*The association may only consider: civil judgments imposed within the past seven (7) years involving judgements of (1) civil rights laws, (2) real estate license laws, and (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities. The association may only consider criminal convictions within the past seven (7) years involving a crime that reasonably relates to the real estate business or puts clients, customers, or other real estate professionals at risk, the applicant must provide and the association must consider mitigating factors relating to that criminal history.

**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.

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**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 association of REALTORS® for violation of the Code of Ethics. (Adopted 1/01)

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 (if a secondary member) and must maintain a current, valid real estate broker's or associate broker'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.

\* The association may only consider civil judgments imposed within the past seven (7) years involving judgements of (1) civil rights laws, (2) real estate license laws, and (3) or other laws prohibiting unprofessional conduct against the applicant rendered by the courts or other lawful authorities. The association may only consider criminal convictions within the past seven (7) years involving a crime that reasonably relates to the real estate business or puts clients, customers, or other real estate professionals at risk, the applicant must provide and the association must consider mitigating factors relating to that criminal history.

The Association will also consider the following in determining an applicant's qualifications for REALTOR® membership:

All final findings of Code of Ethics violations and violations of other membership duties in this or any other REALTOR® Association within the past three (3) years

Pending ethics complaints (or hearings)

Unsatisfied discipline pending

Pending arbitration requests (or hearings)

Unpaid arbitration awards or unpaid financial obligations to any other Association or Association MLS

Any misuse of the term "REALTOR®" or "REALTORS®" in the name of the applicants 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.



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Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or if such matters are not resolved within six months from the date that provisional membership is approved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership. If a member resigns from another Association with an ethics complaint or arbitration request pending, the Association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the Association to which the applicant has made application) and will abide by the decision of the hearing panel.

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

The procedure for election to membership shall be as follows:

Applicants for REALTOR® (and REALTOR-ASSOCIATE®, 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 90 days from the Association's receipt of their application, provided two orientations were offered during that 90 days, membership may, at the discretion of the Board of Directors, be terminated. The time limit will be extended, if necessary, to insure two were offered.

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. 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.

If the Board of Directors determines that provisional membership should be terminated, it shall record its reasons with the Association Executive ("AE"). 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.

### **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 (2) hours and thirty (30) minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership or provisional members who have completed comparable orientation in another



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association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year (1) or less. This orientation requirement is satisfied by completing the NAR online orientation or by other means identified in the Policy Manual approved by the Board of Directors.

Failure to satisfy this requirement within 30 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®.

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

Effective January 1, 2019, through December 31, 2021, and for successive three year periods thereafter, each REALTOR® member of the association (with the exception of REALTOR® members granted REALTOR® Emeritus Status by the National Association) shall be required to complete ethics training of not less than two (2) hours and thirty (30) minutes of instructional time. This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by this or another REALTOR® association, the State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS®, which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any three year cycle shall not be required to complete additional ethics training until a new three year cycle commences.

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

### **Section 6. Status Changes.**

A REALTOR® who changes the conditions under which he 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 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 30 days of the date they advised the Association of their change in status, or change of status identified by the Association, 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

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transition. If the transfer is not completed within 30 days of the date the Association is advised of or identified the disaffiliation with the current firm, membership will terminate automatically unless otherwise so directed by the Board of Directors.

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

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 when completed within the allotted 30 days.

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.

### 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 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 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 if 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, the complaint shall be processed until the decision of the association with

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respect to disposition of the complaint is final by this association (if respondent does not hold membership in any other association) or by any other association in which the respondent continues to hold membership. If an ethics respondent resigns or otherwise causes membership in all Boards to terminate before an ethics complaint is filed alleging unethical conduct occurred while the respondent was a REALTOR®, the complaint, once filed, shall be processed until the decision of the association with respect to disposition of the complaint is final. In any instance where an ethics hearing is held subsequent to an ethics respondent's resignation or membership termination, any discipline ratified by the Board of Directors shall be held in abeyance until such time as the respondent rejoins an association of REALTORS®. (Amended 5/16)

(a) If a member resigns or otherwise causes membership to terminate, the duty to submit to arbitration (or to mediation 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 1/00 and 11/11)

**Section 6. REALTOR® Members.** REALTOR® Members, whether primary or secondary, in good standing are entitled to vote and to hold elective office in the Association, and may use the terms REALTOR. For purposes of this section, the term "good standing" means the member satisfies the "Obligations of REALTOR® Members", is current with all financial and disciplinary obligations to the association and MLS, has completed any new member requirements, and complies with NAR's trademark rules.

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® Member-ship, 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.

a. 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.\*

\*Concerning Article VI, Section 6(a), associations are advised to select one rule from the two alternatives. The association may wish to consult with legal counsel prior to adoption.

b. In any action taken against a REALTOR® Member for suspension or expulsion under Section 6a 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.

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**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 ("MLS").

**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 August, or a period specified by the Board of Directors, 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. The certification form(s) shall be sent to the Designated REALTOR® Members each year. 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. Failure to certify by the date specified by the Association, a date not less than 30 days nor more than 35 days from the date of mailing will result in a fine of \$250.00 (two hundred fifty dollars) per individual not reported, not to exceed the maximum fine of \$2,500.00 (two thousand five hundred dollars.)

"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. Failure to certify within 30 days will result in a fine of \$500.00 per individual not reported.

**Section 13. Legal Liability Training.** No additional requirements are imposed due to the mandatory training already required by the licensing law.

**Section 14. 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, written, 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

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offensive work environment. The decision of the appropriate disciplinary action to be taken shall be made by the investigatory team comprised of the President, and President-elect and/or Vice President and one member of the Board of Directors selected by the highest ranking officer not named in the complaint, upon consultation with legal counsel for the Association. Disciplinary action may include any sanction authorized in the Association's Code of Ethics and Arbitration Manual. If the complaint names the President, President-Elect or Vice President, they may not participate in the proceedings and shall be replaced by the Immediate Past President or, alternatively, by another member of the Board of Directors selected by the highest ranking officer not named in the complaint.

NOTE: Suggested procedures for processing complaints of harassment are available online through <https://www.nar.realtor/> or from the Member Policy Department.

### **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 safeguard and promote the standards, interests, and welfare of the association and the real estate profession, and to protect against conduct that may cause a lack of public confidence in the real estate profession or in REALTORS®. REALTOR® members also must abide by the governing documents and polices of the association, the State Association, and the NATIONAL ASSOCIATION OF REALTORS®, as well as the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, including the duty to arbitrate controversies arising out of real estate transactions as specified by Article 17 of the Code of Ethics, and in accordance with the procedures set forth in the Code of Ethics and Arbitration Manual.

Every REALTOR® member shall maintain a high level of integrity and adhere to the association's membership criteria. Any violent act or threat of violence to person or property, hateful conduct, or acts of moral turpitude impacting the public shall not be tolerated and may be cause for disciplinary action, up to and including termination of membership.

**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 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 4.** Members of the Professional Standards Committee, Grievance Committee and Board of Directors will attend Code of Ethics training annually as scheduled by the Board of Directors.



## Article VIII - Use of the Terms REALTOR® and REALTORS®

### **Section 1. REALTOR® Trademark.**

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.

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.

**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® principal member may use the terms REALTOR® and REALTORS®, only if all the principals of such firm, partnership, or corporation who are actively engaged in the real estate profession within the state or a state contiguous thereto are REALTOR® members or Institute Affiliate members.

In the case of a REALTOR® principal member 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, holds REALTOR® membership. If a firm, partnership, or corporation operates additional places of business in which no principal, holds REALTOR® membership, the term REALTOR® or REALTORS® may not be used in any reference to those additional places of business.

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

## Article IX - State and National Memberships

**Section 1.** The Association shall be a Member of the NATIONAL ASSOCIATION OF REALTORS® and NMAR. 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 NMAR 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 (1) month in advance of the date designated for the termination of such membership.

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**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 New Mexico 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 a reasonable amount, not exceeding three (3) 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.

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

Designated REALTOR® Members' Dues. 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, nonmember 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 nonmember licensees in another Board 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 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.

(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, is actively engaged in the real estate profession as defined in Article III, Section 1, of the Constitution of the NATIONAL ASSOCIATION OF REALTORS®. An individual shall be deemed to be licensed with a REALTOR® if the license of the individual is held by the REALTOR®, or by any broker who is licensed with the REALTOR®, or by any entity in which the REALTOR® has a direct or indirect ownership interest and which is engaged in other aspects of the real estate business (except as provided for in Section 2 (a) (1) hereof) provided that such licensee is not otherwise included in the computation of dues payable by the principal, of the entity.



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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, 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®. Designated REALTORS® shall notify the association within three (3) days of any change in status of licensees in a referral firm.

The exemption of any licensee include 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.

(b) **REALTOR® Members Dues.** The annual dues of REALTOR® Members other than the Designated REALTOR® shall be as established annually by the Board of Directors.

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

NOTE: The Institutes, Societies and Councils of the National Association shall be responsible for collecting and remitting dues to the National Association for Institute Affiliate Members (\$75.00). The National Association shall credit \$25.00 to the account of a local Association for each Institute Affiliate Member whose office address is within the assigned territorial jurisdiction of that Association, provided, however, if the office location is also within the territorial jurisdiction of a Commercial Overlay Board (COB), the \$25.00 amount will be credited to the COB, unless the Institute Affiliate Member directs that the dues be distributed to the other board. The National Association shall also credit \$25.00 to the account of state 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 as established annually by the Board of Directors.

(e) Public Service Members. The annual dues of each Public Service Member shall be as established annually 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.

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**Section 3. Dues Payable.** Dues for all members shall be payable annually in advance on October 1 and will be considered delinquent if not paid by October 31 of the current year. A reinstatement fee, to be determined by the Board of Directors annually, shall be collected for all dues not paid in full by 8:00am on the first business day after October 31 of the current year. Dues for new members shall be computed from the date of application and granting of provisional membership.

In the event an associate broker, 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 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 Member shall automatically terminate unless within that time the amount due is paid. 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. Unbudgeted Expenditures.** The AE will have a one thousand dollars (\$1,000.00) cap, per fiscal year, for unbudgeted expenditures. The board of directors shall review the unbudgeted expenditures monthly and may, at their discretion, reallocate any portion of the unbudgeted expenditures to the budget and reinstate that portion to the allowed AE aggregate amount of unbudgeted expenditures.

### **Section 6. 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 the Multiple Listing & Information Service, Inc. (MLS) shall be noticed to the delinquent Association Member in writing or by electronic notice setting forth the amount owed and due date.

**Section 7. The dues of REALTOR® Members who are REALTOR® Emeritus** (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 8. Records** The Profit and Loss Statement and Balance Sheet of the Association are available to the membership during regular business hours upon advanced request, for inspection and review at the Association office. Records may not be copied or removed from the premises.

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### **Section 9. Financial Budget and Audit.**

An annual operating budget will be prepared by the AE and Finance Committee and presented to the board for approval at the November board meeting prior to the beginning of the next fiscal year. Starting with the 2024 fiscal year budget and each five (5) years thereafter, a financial audit will be funded in the budget.

Starting with the 2024 fiscal year and each five (5) thereafter, the board shall have a financial audit conducted. The firm conducting the required audit must be a disinterested party and shall not be involved in the normal month to month accounting processes for LCAR. The audit shall be started within the month of July and shall be completed within ninety (90) days and the findings presented to the LCAR board.

## **Article XI - Officers and Directors**

**Section 1. Officers.** The elected officers of the Association shall be: A President, a First Vice President/President-Elect, and a Second Vice President/Treasurer. The Secretary will be the AE. The elected officers shall serve a one-year term moving to the next higher position the following year except as otherwise noted in these bylaws.

**Section 1a. Executive Committee.** The LCAR President, the LCAR First Vice President/President-Elect, the MLS President and the MLS First Vice President/President-Elect shall serve as the members of the Executive Committee. The Executive Committee shall plan the affairs of the association between meetings of the board of directors in accordance with the Association Bylaws and Policies and Procedures.

### **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 AE to keep the records of the association and to carry on all necessary correspondence with the NATIONAL ASSOCIATION OF REALTORS® and NMAR.

The governing body of the association shall be a board of directors consisting of the LCAR President, the LCAR; First Vice President/President-Elect, LCAR Second Vice President/Treasurer MLS President, MLS First Vice President/President-Elect, MLS Second Vice President/Treasurer, and one (1) director elected for every one hundred seventy-five (175) Association members as of May 1st annually, rounded up or down using .5 (point five) as the rounding center. Directors shall be elected to serve for terms of two years, except that in the event the terms of more than one half (1/2) of the directors are scheduled to expire on December 31st of any given year, then prior to the next election of that year, the Board of Directors shall have the authority to adjust the terms of existing and/or incoming directors in order to re-establish the system under which one half (1/2) of the directors become available each year. Thereafter, as many directors shall be elected each year as are required to fill vacancies. No vacancy will exist for an expiring director term that is in excess of the one (1) director per one hundred seventy-five (175) members, rounded up or down using .5 (point five) as the rounding center. However, at no time will an elected director have their term shortened as a result of the membership count as of May 1st.

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**3. Term Limits.** No director shall serve for more than three consecutive two year terms. At no time can the consecutive service of officers or directors exceed six (6) years. As such no officer or director can be nominated for a new position that would create a situation in which they would, by virtue of election, exceed the maximum six (6) years of consecutive service.

**3a. Restrictions.** No one company shall have representation on the governing body greater than forty percent (40%) of the total governing body, rounded up or down using .5 (point five) as the rounding center. However, at no time will an elected director have their term shortened as a result of the membership count as of May 1st or a change of company.

Nominated candidates and/or petition candidates must be balloted to run against each other. If any candidate is running for office and the election of that candidate will violate the provisions contained in Section 3 b, the offending candidate will be removed from the ballot. If two or more candidates from the same office are running for the same position and the election of two or more of them will violate the provisions contained in Section 3 b the candidate which receives the lower vote total between them will forfeit the election. When two or more candidates from the same office are running for an Officer position and a Director position, they will be candidates for the Officer position, unless one withdraws, and the candidate which receives the lower vote total between them will forfeit the election.

### Section 4. Duties of the Board of Directors.

The Board of Directors shall:

- a. Faithfully prepare for and attend all meetings in a timely manner and commit adequate quality time to the performance of their fiduciary and leadership duties and responsibilities.
- b. Attend training and education as available to enhance their effectiveness as leaders and policy makers and to personally conduct such activities as are necessary for the Directors to accurately advance member needs and desires.
- c. Ensure that meeting agendas to facilitate formulating policy and future plans of the Association. Identify and eliminate committees and functions whose continued existence and resource allocation is inconsistent with the primary goal of the Association.
- d. Develop and budget a business plan that will ensure Association needs are met.
- e. The Board shall obtain the services of such executive, legal and office personnel it deems necessary to care for and maintain the properties of the Association and otherwise conduct the administrative business of the Association. The Board of Directors shall have the right to perform an audit of the books and accounts at any time without notice. Except as may otherwise be provided in these Bylaws, the action of the Board of Directors shall be final.

### Section 5. Election of Officers and Directors

- a. By January 1st of the current year the Chair of the Board Development Committee will be appointed by the President. The President shall appoint the Board Development Committee no later than February 1st of each year. The Board Development Committee will consist of seven (7) REALTORS® Members, the Chair shall be a past president. No member of the Board

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Development Committee shall be eligible for position as an officer or director during the same year they serve on the Board Development Committee. The Board Development Committee will cultivate potential candidates throughout the year. It shall consist of (3) past presidents, one (1) member of the current Board of Directors, and three (3) members at large. There will be no more than two (2) members from the same office.

- b. The Board Development committee chair will coordinate with the Association Executive to assure that all time lines and processes are met and that the job descriptions of all offices to be filled will be made available to all applicants. Applications will be submitted no later than June 1 or an earlier date announced by the Board Development Committee chair. The Board Development Committee may solicit applicants. The Board Development Committee shall solicit at least one (1) candidate for each vacancy to be filled. The Board Development committee shall consider the restrictions of Section 3b.
- c. The report of the Board Development Committee shall be provided to the President and the Board of Directors not less than forty five (45) calendar days prior to the scheduled election. Upon submittal of the report to the Board of Directors, the Board Development Committee chair shall notify the nominees of their selection for the election. The Board Development committee chair will also notify the candidate(s) whose election would violate the prohibition contained in Section 3 b that they will not be balloted.
- d. The President shall direct the AE to publish by electronic notice the approved nomination list to each member eligible to vote at least three (3) weeks prior to the election.
- e. Additional candidates for the offices to be filled may be placed in nomination by petition signed by at least ten percent (10%) of the REALTOR® Members eligible to vote on May 1 preceding the scheduled election. The petition shall be filed with the AE at least two (2) weeks before the election. The AE shall send electronic notice of such additional nominations to all Members eligible to vote prior to the election. All petition candidates are subject to the prohibitions contained in Section 3b.
- f. The election shall take place at the annual membership meeting in September as established by Article XII, Section 1. The election shall be by ballot and all votes shall be cast in person or by electronic means as established by Article XII, Section 5, or by absentee ballot prepared for the election by the AE. The ballot shall contain the names of all the candidates and the offices for which they are nominated. Early voting ballots must be cast at the LCAR office prior to the published election date. Early voting ballots received will be counted in the required quorum needed for the elections. Ballots will be counted by the AE and certified by not less than two (2) members at large who are not being elected by those ballots.

### **Section 6. Vacancies.**

- a. Director vacancies shall be appointed by the President with the approval of the board of directors. Any such appointments shall be for the remaining term of the vacancy.
- b. If the President is unable to serve or fulfill their term, the First Vice President/President-Elect will become the President, except when Section 6.2 below is approved by the board of directors.

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- c. If the First Vice President/President-Elect is unable to serve or fulfill their term, the Second Vice President/Treasurer will become the First Vice President/President-Elect.
- d. If the Second Vice President/Treasurer is unable to serve or fulfill their term, the President will:
  - 1. Notify the membership within five (5) calendar days that applications are being accepted for the Second Vice President/Treasurer vacancy. Applications will be accepted for a period of fifteen (15) calendar days.
  - 2. The Board Development Committee will meet within five (5) calendar days after the application deadline date and may interview any applicant. The committee shall notify the President and the Board of Directors within five (5) calendar days of the candidate(s) for the Second Vice President/Treasurer position. The Board Development Committee must have at least five (5) members to conduct interviews and no member of the Board Development Committee may be an applicant for the position. The Board Development Committee may solicit candidates for the position. The Board Development Committee shall consider the prohibitions contained in Section 3b.
  - 3. The report of the Board Development Committee shall be provided to the President within five (5) calendar days. Upon submittal of the report to the Board of Directors, the Board Development Committee chair shall notify the nominee(s) of their selection for the election. The Board Development committee chair will also notify the candidate(s) whose election would violate the prohibition contained in Section 3 b that they will not be balloted.
  - 4. The President shall, within two (2) calendar days of submittal of the report, direct the AE to publish by electronic notice the approved nominated candidate to each member eligible to vote. That notification will also notice the Special Election date, not to exceed ten (10) calendar days from the date of the published candidate selection.
  - 5. The election shall be conducted under the provisions of Article XI Section 5.
- e. Ballots will be counted by the AE and certified by not less than two (2) members at large who are not being elected by those ballots.

**Section 6.1** Any Officer or Director may resign at any time by delivering notice to the Association Executive and said resignation will be effective upon acceptance by a majority vote of the Board of Directors. The Board of Directors vote may be by electronic means in accordance with Section 5, Article XII of these bylaws.

**Section 6.2** A vacancy of the Office of the President because of death, resignation, removal, or disqualification may be filled by the First Vice President/President Elect who shall serve the remaining portion of the President's term as well as their own elected term upon approval of the Board of Directors. All other positions will remain the same upon approval.

**Section 6.3** A vacancy in the office of the President because of death, resignation, removal, or disqualification which then cannot be filled by the next ranking officer, may be filled by an appointment to the vacancy by the Board of Directors for the unexpired portion of the term. (Approved 6.21.16)



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**Section 7.** 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 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.

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.

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 chair the meeting. Provided a quorum is present, a three-fourths (3/4) vote of Members present and voting shall be required for removal from office.

**Section 8.** Indemnification of Officers and Directors The Association will indemnify any director, officer, Association Executive, former director, former officer or former Association Executive of the Association against expenses, costs and attorney's fees actually and reasonably incurred in connection with the defense of any action suit or proceeding, civil or criminal, in which the director, officer or Association Executive is made a party by reason of having been a director, officer or Association Executive. The indemnification may include any amounts paid to satisfy a judgment or to compromise or settle a claim. The officer, director or shall not be indemnified if they have breached or failed to perform the duties of office and the breach or failure to perform constitutes willful misconduct or recklessness. Advance indemnification may be allowed of an officer, director or Association Executive for expenses to be incurred in connection with the action, suit or proceeding, provided that the director, officer or Association Executive must reimburse the Association if it is subsequently determined that they were not entitled to indemnification by reason of negligence or misconduct in the performance of duties of an officer, director or Association Executive. The Association may make any other indemnification as authorized by the Articles of Incorporation, Bylaws or by resolution adopted after notice by the members certified to vote.

**Section 9.** Association Executive (AE). There shall be an AE, appointed by the Board of Directors, who shall be the chief administrative officer of the Association. The AE 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.

## Article XII- Meetings

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



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Additional membership meetings may be held at any time the President, or Board of Directors may determine, or upon the written request of at least 20% (twenty percent) of the voting membership.

**Section 2. Executive Committee Meetings.** The President shall designate a regular time and place for monthly executive committee meetings. All decisions of the executive committee will be reviewed at the next board of directors meeting and will be noted in the minutes of that meeting. The executive committee will have a one thousand dollars (\$1,000) cap. Per fiscal year for unbudgeted expenditures. The board of directors shall review the unbudgeted expenditures monthly and may, at their discretion, reallocate any portion of the unbudgeted expenditures to the budget and reinstate any portion to the allowed executive committee aggregate amount of unbudgeted expenditures.

**Section 3. Meetings of Directors.** The Board of Directors shall designate a regular time and place of meetings.

**Section 4. Special Meetings of the Board of Directors.** Special meetings of the Board of Directors may be held at other times as the President or 20% (twenty percent) of the Board of Directors may determine.

**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 20% (twenty percent) of the Members eligible to vote on May 1 annually.

**Notice of Meetings.** Written or electronic notice shall be given to every member entitled to participate in the meeting at least one (1) week prior to all meetings. All notices of any such meetings shall be accompanied with a statement of the meeting purpose.

**Quorum Requirements for all Meetings.** A quorum for the transaction of business at membership meetings shall consist of 20% (twenty percent) of the Members eligible to vote on May 1 immediately preceding the meeting. Absentee ballots will be included in the membership count toward a quorum.

All bylaw changes and board elections must have a quorum of twenty percent (20%) of the voting membership count on May 1 immediately preceding the bylaw change or board election. The quorum count and result count shall be noted in minutes of the meeting. When bylaw changes or elections are conducted electronically, the quorum count and result count shall be noted in the next board meeting minutes along with names of those who certified the results.

**Section 5. Electronic Transaction of Business.** To the fullest extent permitted by law, the Board of Directors or membership may conduct business by electronic means in accordance with these Bylaws.

Meetings by Electronic means as used in these bylaws is participation utilizing conference telephone or other communications equipment whereby all persons participating in the meeting can hear each other. Further, participation in a meeting by such means shall constitute presence in person at such meeting.

Electronic notice as used in these bylaws shall be deemed a written notice when sent by email message to the electronic mail address specified by the receiving member and shall be deemed received at the time the electronic notice is sent.

Email message as used in these bylaws means a message sent to a unique electronic mail address.

Electronic delivery means the delivery of documents by facsimile, or electronic mail, the internet or other electronic means.

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**Section 6. 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 consent in writing, setting forth the action so taken, shall be signed by all of the directors. 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 directors. All the approvals evidencing the consent shall be delivered to the Association 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.

**Section 7. Absence from Meetings.** Three absences in any calendar year shall be construed as resignation. The member may appeal the resignation to the Board of Directors.

### Article XIII - Committees

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

Professional Standards

Grievance

Board Development

Bylaws

Education

RPAC

Government Affairs

Community Service

Membership

Events

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

**Section 3. Appointment of Committee Chairs and Vice Chairs.** With the exception of REALTOR® of the Year and Finance committees, the in-coming President shall appoint the Committee Chairs and the incoming First Vice President/President-Elect shall appoint the Committee Vice Chairs who shall serve during the year of the incoming President's and incoming President-Elect's term as President and President-Elect. The Committee vice Chairs will become the Chairs when the appointing First Vice President/President-Elect becomes President.

**Section 4. 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 5. President.** The President shall be an ex-officio member of all standing committees and shall be notified of their meetings.

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**Section 6. 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.

**Section 7. Absence from Meetings.** Three absences in any calendar year from a committee meeting shall be construed as resignation. The member may appeal the resignation to the Board of Directors.

**Section 8. Attendance by Electronic Means.** Members of a committee may participate through the use of a conference call, video conference or any similar communications means. Such participation shall constitute presence at the meeting and count towards the quorum.

**Section 9. Finance Committee.** The finance committee will consist of the LCAR Second Vice President/Treasurer, MLS Second Vice President/Treasurer, two (2) current directors, two members at large, and the LCAR Certified Public Accountant (CPA) as an ex-officio member. The LCAR Second Vice President/Treasurer shall be the Chair and the MLS Second Vice President/Treasurer will be the Vice Chair.

**Section 10. REALTOR® of the Year (ROTY) Committee.** The ROTY will consist of all past ROTY recipients who agree to serve. The ROTY recipient who received the award the year prior to the award will serve as chair of the committee; provided, however, if that individual is not available, able and willing to serve in that capacity, the committee chairmanship would be carried back to the individual who received the award two years prior to the award year. If that individual is not available, able and willing to serve, this process would continue in the same fashion until the chairmanship of the committee is determined.

### 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 January 1 to December 31

### 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.

**Section 2.** Proxy votes may count toward committee meeting quorum requirements but no member of the respective committee may hold more than 5 proxies. In no meeting where proxies are utilized may any one-member hold proxies which exceed 20% (twenty percent) of the quorum present at the meeting. Proxy votes must be hand delivered to, and accepted by, the Chair of the meeting. Proxies are only valid for the meeting specifically designated on the proxy.

### Article XVI - Amendments

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**Section 1.** These Bylaws may be amended by the majority vote of the Members present and qualified to vote at any membership 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 delivered electronically, 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 of this Association, the Board of Directors, after providing for the payment of all obligations, shall distribute any remaining assets to the New Mexico Association of REALTORS® or, within its discretion, to any other non-profit tax exempt organization.

### Article XVIII - Multiple Listing

**Section 1. Authority.** The Las Cruces Association of REALTORS® (“LCAR”) shall maintain for the use of its Members a Multiple Listing Service (“MLS”) which shall be a lawful corporation of the state of New Mexico, all the stock of which shall be owned by the Las Cruces Association of REALTORS®.

**Section 2. Purpose.** An MLS 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, analyses, and other valuations of real property for bonafide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; 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). The MLS also offers computerized information services to Boards/Associations who opt to purchase such services from the MLS, and to any other entity deemed appropriate by the Board of Directors. It also offers other programs and services which are deemed desirable and/or necessary to real estate related organizations and firms and to the public.

**Section 3. Service Area.** The area within which the MLS shall function shall at all times be coextensive with or within the territorial jurisdiction of the Las Cruces Association of REALTORS® and that of any Board/Association which opts to purchase services from or sign a joint venture agreement with the MLS.

**Section 3. Governing Documents.** The Board of Directors shall cause any MLS established by it pursuant to this Article to conform to its corporate charter, constitution, by-laws, rules, regulations,

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policies, practices, and procedures at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the NATIONAL ASSOCIATION OF REALTORS®.

**Section 4. Participation.** Any REALTOR® of this or any other Association who is a principal, except as otherwise stipulated in these bylaws, shall be eligible to participate in the MLS upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.\* However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other Participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.\*\* Use of information developed by or published by an Association's MLS 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's MLS where access to such information is prohibited by law.

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

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.

\* Any applicant for MLS participation and any license (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.

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\*\* Generally, Boards of REALTORS®, when there is more than one principal in a real estate firm, define 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 5. Subscribers.** Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS Participant or the Participant's licensed designee.

**Section 6. Access to Comparable and Statistical Information.** REALTOR® members who are actively engaged in real estate brokerage, management, 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 as approved by the Board of Directors. This information is provided for the exclusive use of REALTOR® members and individuals affiliated with REALTOR® members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided by any member to any unauthorized individual, office or firm except as otherwise specified in the MLS Rules and Regulations.

REALTOR® members who receive such information, either as an Association service or through the Association's MLS are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the MLS or not.

**Section 7. Information Service.** Subject to MLS Rules and Regulations, information collected and or generated by the MLS may be offered, for a fee, to non-licensed persons or firms as provided by law and the MLS Board of Directors.

**Section 8. Board of Directors.** At any election the LCAR Board of Directors shall vote the stock in the MLS solely owned by LCAR, so that the serving LCAR officers and directors serve as the directors of the MLS.

**Section 9. Director Resignation or Termination.** The resignation or termination of an LCAR or MLS Director or Officer shall be an automatic resignation from both LCAR and the MLS Board of Directors.

**Section 10. Lock Boxes:** The LCAR Board of Directors shall enter into a Memo of Agreement (MOA) with the MLS to provide lock box access via a lock box provider and key system of their choosing. LCAR shall determine that the lock box provider meets the requirements of the National Association of REALTORS® regarding lock box program security requirements.

**Section 10.1 Affiliate Members** who are in the home inspection, warranty, photography/videographer or other types of inspectors or service providers shall be eligible to contract with MLS for electronic key access. Affiliate members of LCAR who contract for electronic key access will only have the "Call Before Showing" (CBS) access. These Affiliate Members must meet the following conditions:

- A. The Owner/Manager holds LCAR Primary Affiliate Membership.

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B. Each individual in the Affiliate Company who contracts with SNMMLS for an electronic keypad must be an LCAR Affiliate Member.

C. The Affiliate Company must provide evidence upon application, and annually thereafter, of holding no less than \$500,000 in general liability insurance naming LCAR and MLS as additional insureds and provide for LCAR and MLS to receive a thirty-day (30) notice before cancellation or expiration.

D. The electronic key assigned to an individual LCAR Affiliate Member may not be used under any circumstances by anyone other than the key holder. The MLS Board of Directors may impose a fine and the LCAR Board of Directors may otherwise treat it as a membership violation pursuant to Article V, Section 2, Qualifications of the LCAR Bylaws.

E. The primary member of the Affiliate Company electing to utilize Lock Box Services shall comply with the National Association of REALTORS® biannual Code of Ethics training requirements (or approved equivalent) as a condition of receiving and/or continuing to receive any such services.