



# **Corporate Policy and Procedure Manual**

## **SRG and all of its affiliates**

**Pacific Baruna Corp  
SRG WA, LLC  
SRG Holdings, LLC  
SRG Holdings, Inc.  
SRG 2MB, LLC  
SRG Utah LLC**

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## **I. Mission Statement**

Corporate Broker doing business as Pacific Baruna Corp, SRG WA LLC, SRG Holdings LLC, SRG Holdings Inc., SRG 2MB LLC, SRG Utah LLC or any dba ownership of the Company registered in the State we are doing business in (Corporate Broker), where appropriate believes in the American Dream of homeownership. Our firm is committed to providing professional service to individuals, families and companies during the process of buying and selling real estate. With a foundation of integrity and a commitment to the highest ethical standards, we are committed to customer satisfaction and strive to exceed the customer's expectations by providing superior products and services available in the industry and through professional and ethical representation by our quality associates and staff.

We will use our competitive advantage of residential and commercial Brokerage expertise as a base upon which we build our organization. We will maintain, strengthen and perpetuate a business image of stylish, youthful vitality that responds to and predicts the market conditions with a reputation for providing a broad range of the most professional, customer oriented real estate service available at competitive prices.

We have provided our Agents with the most powerful tools in the real estate market, and we have evolved to become the first Virtual Real Estate Firm in the nation. Our Agent Command Center is the most dynamic Agent office in the business.

### **A. Our Commitments**

- Ø We are committed to integrity and the highest ethical standards in all of our interactions with our customers and the community.
- Ø We are committed to fostering mutual respect and trust in all our business relationships.
- Ø We are committed to open and honest communication.
- Ø We are committed to continual training and improvement of our associates.
- Ø We are committed to the acceptance and respect of all people.
- Ø We are committed to good citizenship and to acting responsibly in giving back to the community through volunteer actions and contributions.

### **B. Our Commitments to Our Associates**

- Ø Corporate Broker is committed to supporting its associates by providing a nurturing work environment that is free of discrimination or harassment of any kind.
- Ø We are committed to providing a variety of high quality services designed to enable each associate to be successful in the pursuit of his/her professional goals.
- Ø The staff, comprised of talented, hard-working people, is dedicated to facilitating the success of the associates and executing the designated tasks necessary to achieve the overall goals of the company.

### **C. Our Commitments to Our Staff**

Ø The firm is committed to providing a friendly, safe work environment that promotes teamwork and cooperation.

Ø We believe in a win/win team philosophy and the importance of individual performance as it relates to the overall success of the team.

### **D. Company Goals**

1) To provide the best qualified associates into the industry and to be the most professional, ethical and successful real estate company in the communities we serve.

2) To carry a complete and uncompromising commitment to the highest moral and ethical values for our company and our profession.

3) To make meaningful, unselfish contributions of our company resources to each community in which we serve.

4) To promote and maintain a total awareness of and concern for the importance of the needs of each individual whom we interact, our customers and clients, those within our organization and those within our industry.

5) To aggressively recruit, select and retain those individuals who have demonstrated the ability or the potential to become the highest caliber professional, i.e., one who possesses such attributes as integrity, ability, desire, knowledge, empathy, enthusiasm, ethics, determination and persistence.

6) To have an organization with an ability to grow horizontally and vertically if and when growth is appropriate based on a response to market needs which are present or anticipated. All growth opportunities will be evaluated in terms of support provided or profits generated directly or indirectly without dilution of our sales and marketing efforts.

7) To develop and maintain a profitable organization which will succeed and prevail.

8) To capture and maintain as a company the largest single share of each residential and/or commercial market we serve.

## **II. General Statement of Policy**

The purpose of this policy & procedure manual is to set forth the basic guidelines for the daily operation of the Corporation. It is intended to cover situations, or circumstances, or to answer questions about company policies and procedures. This office is committed to providing the highest quality of service to our clients and the professionals with whom we work. It is the policy of the company to conduct ourselves at all times in the highest ethical, professional and competent manner when dealing with our clients, associates and employees of this company, other Realtors and professionals.

### ***The purpose of this policy manual is to:***

Ø Establish a uniform system of daily conduct by and between The Corporate Broker when dealing with each other in the firm, our clients and members of the public.

Ø Provide you with policies and guidelines to help avoid disputes with and liability to others, i.e., to provide an orderly system of conflict resolution.

Ø The States of California, Colorado, Texas, Florida, Nevada, Georgia, Utah, Arkansas, and Washington are represented in this manual. The Laws of these State, if not documented in this manual are inferred to be part of this manual. Everything is provided accordingly, and if there is a specific issue pertaining to a State it will be documented with the State that the specific policy or Law is referenced.

Your failure to comply with the policies and procedures within this manual may result in your termination from this company, and compensation will not be paid.

The company is referred to in the manual as The Broker, The Corporate Broker, Designated Realtor, and The Firm. The Company or Management; and agents are referred to as Sales people, or Sales Associates, or Brokers, or Brokers associates.

The relationship of Sales Associates to the firm is that of independent contractors and no employer-employee relationship exists or is to be implied from any title, provision or language used in this manual.

The following items are incorporated into this manual by this reference whether or not the items are attached hereto:

Ø California Real Estate Law, Colorado Real Estate Law, Texas Real Estate Law, Florida Real Estate Law, Nevada Real Estate Law, Georgia Real Estate Lay, Utah Real Estate Law, Arkansas Real Estate Law, and Washington Real Estate Law.

Ø The Bylaws Rules and Regulations of the National, State, and Local Associations of Realtors for which this company is a member, including the Realtor Code of Ethics.

Ø The Bylaws, Rules and Regulations of the Multiple Listings Service(s) for which this company is a member.

Ø Code of Ethics and Standards of Practice, Professional Business Practices in Real Estate.

Ø The Company's Independent Contractor Agreement, Recruiter Joint Venture Agreement, and all Joint Venture Agreements.

Ø All of these policies and procedures, State Laws, Federal Laws, and local association rules and regulations are documented on The Agent Command Center, and every agent and officer is responsible to read these and stay up to date as changes are made accordingly. Changes are made quarterly and all agents must comply with this policy or expect a written warning. The firm will not update you personally, so the agent must log on to stay compliant. If the agent does not follow this policy then there will be disciplinary action.

#### **A. The Broker/Associate Relationship**

This Company is part of an Individual Brokerage. The Brokerage is a member of the National, California, Colorado, Nevada, Florida, Texas, Georgia, Utah, Arkansas, and Washington

Association of Realtors and numerous other Boards of Realtors. As an associate, you are expected to maintain membership in NAR, State association and Brokers Board of Realtors of choice. Your supervising Broker/Sales Manager will be available to answer questions you may have and help you with your transactions whenever needed.

**SALESPEOPLE ARE INDIVIDUAL INDEPENDENT CONTRACTORS. CORPORATE BROKER SHALL HAVE NO OBLIGATION TO WITHHOLD TAXES OR SOCIAL SECURITY FROM COMMISSION CHECKS. THERE ARE NO BENEFITS, AND WE DO NOT PROVIDE MEDICAL INSURANCE TO ANY AGENT.**

To the benefit of both the Salesperson and the Brokerage, an Independent Contractor Agreement shall be signed by both parties.

**Salespersons must be Contracted by a Broker.** A Broker must contract to a salesperson. A salesperson is only licensed to act during contract by and on behalf of a licensed real estate Broker. While a salesperson may be considered an independent contractor for certain limited tax purposes, under both the common law and the license law, regardless of any contract between the Broker and salesperson designating the salesperson as an independent contractor, a salesperson is an agent of the Broker. As a matter of law, a salesperson may only perform licensed activities as an employee under the supervision of a licensed Broker. The Contractor agrees that they are not employed by the Corporate Broker, and waive their rights to any State Labor Board relief.

**Brokers Contracted by Brokers.** A licensed Broker acting in the capacity of a salesperson under a written agreement with a Broker may perform acts for which a license is required for the Corporate Broker at any place of business for which the employing Broker is licensed. The Broker-salesperson must maintain on file with the Commissioner the address of the business location where he or she expects to conduct most of the licensed activities, the employing Broker's principal business office address, and the Broker-salesperson's current residence address. The Commissioner must be notified of any change of any of the above addresses on the next business day following the change. Broker-salesperson and, therefore, cannot be modified by prior or subsequent oral agreements. The Contractor agrees that they are not employed by the Corporate Broker, and waive their rights to any State Labor board relief.

#### **B. At Will Status**

You are associated with this company *at will*. Except where it is otherwise expressly agreed in writing with the Broker, either party may terminate your association at any time, on 24 hours written notice with or without cause or reason. If there is another agreement in place, such as a Branch office agreement, then that agreement is in full force and effect.

#### **C. Valid Real Estate License**

You must maintain a valid California, Florida, Nevada, Colorado, Texas, Georgia, Utah, Arkansas,

or Washington real estate Broker or salesperson license while associated with this company. If your license expires, you may not engage in any activities on behalf of this company which would require a real estate license until it is renewed. If your license is not renewed within thirty (30) days after it lapses, or if it is suspended or revoked by the Department of Real Estate, your association with this company will be immediately terminated.

**D. Broker has possession of the salesperson's license**

The salesperson's license is held by the employing Broker at the Broker's main business office until it is cancelled or until the salesperson leaves the Broker's Contractor status. The license of the Broker and all salespersons must be available in the Broker's main office for inspection by the Commissioner or a designated representative.

**E. Compensation**

1. Fees and Commissions: All Commissions and Fees are to be made payable to the Brokerage.

You will be paid a "split" of the fees and commission earned and actually paid to the Broker for which you are the procuring cause. Your split is based on the attached Independent Contractor Agreement & Commission Schedule. Payment of your split to you is conditional upon actual receipt of the commission by the Broker. Payment of your split is further conditioned upon review of your file by the Broker/Sales Manager and the file being deemed by him/her to be complete and final certification by the Corporate Broker.

2. Monthly Advances/Draws: It is the Broker's policy NOT pay monthly advances or draws to our associates. An Agent may use an outside company for advance payments, such as E-Commission, but the Corporate Broker, or the Corporation is not responsible for the agents borrowing money in advance, and the agent will use company services for the agent to receive an advance.

3. Commissions Deductions/Expense Repayment: If the agents do not return Company property there will be a deduction as stated in this manual.

4. Commission Disputes: If a dispute exists relative to the commission including payment of the commission, the amount of the commission, or the party(s) entitled to the commission, the commission will remain to be the Corporate Broker's property. You agree the Broker will incur no liability to you, The Agent, for withholding commissions.

It is unlawful for any Broker to employ or compensate, directly or indirectly, any person for performing acts requiring a real estate license unless that person is a licensed real estate Broker or real estate salesperson. A licensed real estate salesperson cannot be employed by, nor accept any compensation from, any person other than the Broker who is holding his or her license at the time. The salesperson's only right to compensation depends on the terms of the agreement with the employing Broker and the only recourse is to seek collection from the Broker. A salesperson



cannot pay compensation to any real estate licensee for performing any of the enumerated acts, except through the Broker under whom he or she is licensed at the time.

5. Brokerage Fees, Commissions & Anti-Trust Laws: In order to abide by Federal laws regarding competition and price-fixing, all Brokerage fees must be established independently by each company. Commission rates will be negotiated between the Corporate Broker and the Principal. To avoid anti-trust implications, the Corporate Broker and Broker Associates shall not participate in discussion with competitors concerning Brokerage fees or company splits.

6. BPO's: The Corporate Broker will not be responsible for any funds sent to the Corporation. The agent will have the Corporate Broker sign a payment agreement for the agent and the vendor they are doing BPO's for so they can be paid directly.

## **F. Tax Reporting**

At the end of each calendar year or as soon after as possible, your Broker will provide you with an Internal Revenue Service form 1099 Misc. setting forth compensation paid to you. The firm will also report accordingly as each state request the firm to do so. Your income earned and expenses incurred during the year may have significant tax consequences. You are encouraged to keep accurate records of earnings and expenses. You are also encouraged to seek tax advice regarding these matters.

## **G. Insurance**

1. Errors and Omissions: This Company is self-insured. The responsibilities and liabilities of the Broker and sales associate are outlined in the Indemnification Agreement to Broker-Associate Licensee Contract containing "Indemnification Agreement Regarding Associate Licensee's Errors and Omissions."

2. Automobile: Each sales associate must have automobile insurance. You must maintain on file with the Corporate Broker, proof of current insurance coverage with the State's minimum coverage of a minimum of \$50,000/100,000 Bodily Injury and Property Damage limits of \$25,000. The Broker shall be named as an "Additional Named Insured" on all policies. This is also determined by State laws, and if the amount is higher or lower per State Law then the Brokerage will adhere to the insurance law in that State.

## **H. Office inventory**

1. Office for Sale Signs, and Open House Signs: If the company agrees to provide signs, the Agent may check out signs for the purpose of using the inventory for real estate needs. If the agent does not return the sign that they checked out they will be assessed a fee of \$250.00 per sign, and per occurrence.

If the firm sends letters and request the return of the sign, or signs then the fee will be \$500.00 per sign, and per occurrence to reimburse the firm for time and loss of use of the sign. Attorney fees, and all costs associated with the return of the signs will also be added to the costs of the assessment to retrieve corporate property.

2. Office Lock Boxes: If the company agrees to provide lock boxes, the Agent may check out for the purpose of using the inventory for real estate needs. If the agent does not return the lock box that they checked out they will be assessed a fee of \$350.00 per lock box, and per occurrence.

If The Corporate Broker sends letters and request the return of the lock box, or lock boxes, then the fee will be \$500.00 per lock box, and per occurrence to reimburse the firm for time and loss of use of the lock box. Attorney fees, and all costs associated with the return of the signs will also be added to the costs of the assessment to retrieve corporate property.

### **III. General Corporate Procedures**

*(See Also Independent Contractor Agreement & Commission Schedule)*

#### **A. Office Hours**

Each agent is an independent contractor and makes his/her own schedule.

#### **B. Telephone Systems**

Each agent shall have his/her own phone system. Each phone system will have voice mail capabilities so that each agent will be able to retrieve any and all telephone calls which have been left for them, seven days a week, twenty four hours a day. Agents are not allowed to use the corporate fax number.

#### **C. Signs**

For Sale signs with the office telephone number on them may be made available to sales associates and checked out by signing the appropriate forms. The agent will be responsible to pay a deposit of \$100.00 per sign. Personalized phone numbers may be used on For Sale signs, using the Broker approved logo, providing that sales associates pay for their own signs. Open House signs are the responsibility of the sales associate.

#### **D. Business Cards**

Business cards are the responsibility of the individual agent. Each associate must utilize the approved Broker logo. The Corporate Broker will not pay for agent business cards at any time. Templates are found in the Agent Command Center for your use.

#### **E. MLS Services**

Each associate is expected to join a Board of Realtors of his/her choice within the service area of his/her market place. All agents are responsible for their Board expenses including but not limited to MLS dues, membership dues and other related miscellaneous expenses. The Broker, at his/her discretion, may pay various board expenses and bill the individual agent for costs incurred.

#### **F. Postage and Courier Expense**

All postage and courier expenses are to be paid by the sales associate at all times.

#### **G. Letter Writing**

Any and all letters or other correspondence utilizing Broker doing business as noted in this manual. The name must use company approved logo and be authorized by the Broker or office manager prior to distribution.

#### **H. Attorneys**

No agent shall employ the help of, engage the use of, or in any other manner, obligate the Corporation to an Attorney without first having written authorization from the Corporate Broker. A sales associate must never give legal advice, directly or indirectly. This includes advice in regards to the legal rights of parties, the legal effect of notices and instruments and matters affecting title to property. When a client asks a question which might border on LEGAL ADVICE, it must be made clear that only an attorney can give such advice.

#### **I. Personal Assistants**

As your business increases, you may find hiring a personal assistant to be helpful. Interviewing, hiring and contracting with the assistant will be the sole responsibility of the sales associate. However, the Broker reserves the right to terminate the assistant or otherwise prohibit him/her from entering the virtual system for any reason, at any time.

Any taxes and other compensation due the personal assistant shall be arranged through you and will be your responsibility. Additionally, you agree to indemnify and hold corporate Broker harmless from all claims arising against the Broker out of your association with the assistant. Furthermore, you agree that any assistant you hire will abide by the State laws set forth in the State of California, Colorado, Texas, Nevada, Georgia, Utah, Arkansas, and Florida.

#### **J. Meetings**

1. Office Meetings: The firm is a Virtual Company and does not have any formal face to face meetings. The company uses virtual means to communicate directly with its' agents. Corporate policy is to stay updated on the Agent Command Center to learn about changes in corporate policies, state laws, and Federal Laws that change.

2. Policy Meetings: Policy updates will be made periodically as determined by management. These updates will be posted on the Agent Command Center. If there are changes in policy that an associate feels should be made, he/she may bring these changes to the attention of the management for inclusion on the agenda for the policy updates. These updates will occur in the Agent Command Center, any changes, if any are made, will occur on a quarterly basis. It is the agent's responsibility to review these changes on the Agent Command Center.

#### **K. Telephone Procedures**

1. Do Not Call Policy: All agents of this Brokerage must comply with the Corporate "Do Not Call Policy".

2. Buyer Related Sign Call: If a Salesperson is not asked for by name the Up-Salesperson may work with that customer. If the customer has a property to list in one of our areas, the Up-

Salesperson, who has now built the rapport with their client, will take that listing.

3. Ad Calls: An ad call is handled just like a sign call.

4. Back Ups: Every salesperson should have at least one back-up who can be reached in the case the salesperson is out of town, on vacation, or off for just a weekend. We will keep an up-to-date list in the office of all Associates and their back-ups. It is your responsibility to replace yourself on the floor. Flagrant non-performance will remove you from the following month's list. It is suggested that you tell only your back-up and management about leaving town. It is then up to your back-up to handle your messages on a daily basis. This way, no one accidentally tells any caller that you are out of reach.

#### **L. Corporate Back Office & Website**

The firm has a Corporate Website and the Agent Command Center. All policies, State, and Federal laws are documented for your review on the Agent Command Center.

#### **M. Holidays**

The company will observe the following legal holidays: New Year's Day, Easter, Independence Day, Thanksgiving, Christmas Eve and Christmas Day.

#### **N. Vacations, Family and Personal Leave, or Military Duty**

Since the sales staff consists of independent contractors who receive no vacation pay, Broker Associates may regulate their own vacations; however, it is requested that Associates use good judgment and communicate with each other to assure that their vacations do not overlap excessively and leave the Company shorthanded or unable to cover floor time, and calls from the website, or sign calls.

#### **O. Office Location and Hours**

The Company operates as a virtual office. This allows our company to minimize cost and overhead while maintaining excellent service. Agents who wish to open and operate physical offices do so at their own expense and liability. Each agent is an independent contractor and makes his/her own schedule, and is responsible for their office. The Managing Broker's virtual office will handle phone and communication systems during the night mode.

#### **P. Dress and Appearance**

All Broker Associates, agents, and employees are expected to dress neatly and appropriately, and to practice proper hygiene. An Associate's image as a representative of the Company is an essential component of any career as a real estate agent.

#### **Q. Education**

Agents and Associates must take all of the required educational courses necessary to maintain their licenses. In addition, it is strongly recommended that Broker Associates, and agents continue to take advantage of the many educational classes offered to real estate professionals

to help improve their business skills.

#### **R. Broker Associates Buying and Selling of Personal Real Estate**

The company and its Associates have a fiduciary responsibility to our clients that prohibits any self-serving practices, such as the purchase of property below reasonable market value. It is important that this fiduciary relationship be respected at all times. Brokers must identify themselves as real estate licensees when buying and selling for their own purposes. An Associate who wants to personally purchase a property listed with the firm must first submit the offer for review with the Corporate Broker.

#### **S. Sale or Purchase of Personal Residence**

Sales associates may sell their own home and the normal commission structure will apply at all times in the sale or listing of their home or investment properties.

#### **T. Personnel Records**

A complete personnel record for each employee, agent, associate, or salesperson will be kept on file in the Corporate Broker's main office. Each employee and associate, or agent shall promptly notify the managing Broker in writing of any change in family status, mail or e-mail address, telephone numbers, contact person(s), or any other pertinent change. The forms to make such changes are available on The Agent Command Center for you to complete and return to the corporate office.

#### **U. Yard Signs**

Unless otherwise stated in the ICA, it is the responsibility of the Agent, or Associate to purchase and install and use property signs properly and in compliance with all MLS rules, local ordinances, and/or rules of the appropriate homeowners association. Broker Associates are responsible for the maintenance of their yard signs. It is highly recommended that agents check their signs on a regular basis to ensure they are clean and in an upright position. Remember that the appearance of the Company's yard signs is important in developing a professional image.

#### **V. Open Houses**

Broker Associates, agents, salespersons, and employees must review with the sellers the risks of hosting open houses in occupied homes. It is difficult to assure and protect the personal property on the premises when several parties attend an open house. It is recommended that two agents be present at the property during an open house.

#### **W. Product or Service Purchases**

No Broker Associate, salesperson, or employee may purchase products or services on behalf of the firm without written authorization from the Managing Broker. Any fees or purchases on behalf of the client are a fee the agent pays, and is deducted from the agent's commission, and not the corporation's commission.

The Corporate Broker shall make arrangements with another licensed agent

within the office to cover the times when they are unavailable to carry out the duties of their business. Associates, when covering for absentee associates, shall be named a party to listing contracts or buyer contracts when acting in such a capacity. The Managing Broker must agree to this relationship. In addition, the client must be informed of the situation *in writing*. If an agent fails to make proper arrangements, then the Corporate Broker shall take over the transaction to carry out those duties and may proportion fees according to his/her discretion.

#### **X. Brokers & Teams Joining our firm**

All Brokers must assign all of their agents to our firm. All agents must transfer their license to our registered firm license number associated with the state we are doing business in. Everyone on the Team must be on the same commission program as the Broker or team leader.

### **IV. Listing and Sales Policy**

All signed an exclusive listings are the property of the Broker. A salesperson, upon leaving the Corporation will be permitted to take his or her listings, providing fees are current upon termination, and the agent is in good standing with no outstanding legal issues, board issues, tax issues, or corporate violations.

#### **A. Multiple Listing Service**

When a listing is obtained in the area of one of the Boards of Realtor's MLS Broker doing business as name noted above belongs to, that listing is to be turned into Management complete, with all the proper forms filled out for the Board. When a sale of a listing on a Board of Realtors Multiple Listing Service is made, a "report of sale" must be sent to that Board within 24 hours, and uploaded into the Agent Command Center.

#### **B. Keeping in Contact With Sellers**

It is the responsibility of the listing Salesperson to maintain contact with each of their listings and to provide them with a minimum of a weekly activity report concerning their property. This information is the property of the Brokerage, and may be requested at any time.

#### **C. When You Take a Listing - IMPORTANT: Please Read Carefully**

The Real Estate Commissioner requires that all contracts executed by Sales Associates must be approved by the Manager within 5 days of execution (This includes listings, leases, deposit receipts, etc.- even if the contract is not accepted by the principles). So, if you do not submit the contracts within 5 days, you are in violation of the Real Estate Law. The listing file is to include everything shown below:

1. Listing Contract completely filled out and signed properly.
2. Completed and signed Listings Transfer Disclosure Statement and Addendum.
3. Completed and signed Agency Disclosure Statement.
4. Seller Affidavit, completed and signed by seller (if applicable).

5. Home Protection Plan-waiver or acceptance.
6. Lock Box Authorization.
7. Sellers Net Sheet signed by the seller.

**Other Important Points to Remember:**

1. Upload the listing to the Agent Command Center file for review and initialing, together with the above named forms. This must be done within 5 business days. The Listing must be approved by the Corporate Broker.
2. Upload the Listing to the Agent Command Center.

**Please Do Not Place A Sign On The Property If We Don't Have Information In The Office!**

3. Schedule in your appointment book weekly, check-in with the seller (it is very important, it keeps your seller happy and keeps you informed).
4. Flyers can be complete in the Agent Command Center.

**D. Personal Residence Listings and Purchases Policy**

1. The Company has no official policy for selling an agents home, and normal commissions will apply to the transaction according to the commission schedule. This includes relative's homes, and investment properties.

***NOTE: All documentation and paperwork are required on all personal listings and purchases as is required on every transaction.***

**E. Duties to the Seller or Buyer as a Single Agent**

It is the expectation of the corporation that all Associates will provide quality services to our clients, with intent of making their transactions as comfortable as possible. The Company and its associates owe the following duties to each Principal.

- 1) To perform the terms of the written agreement made with the Principal.
- 2) To exercise reasonable skill and care for the Principal's interests in the transaction.
- 3) To promote the interests of the principal with the utmost good faith, loyalty and fidelity; including, but not limited to:
  - a. Seeking a price and terms which are acceptable to the Principal (exception: we are no obligated to seek additional offers when the property is subject to a contract);
  - b. Presenting all offers to and from the Principal in a timely manner, regardless of whether the property is subject to a contract;
  - c. Disclosing to Principal adverse material facts actually known;
  - d. Advising the Principal to obtain expert advice as to material matters which our company knows about, but the specifics of which are beyond our expertise;
  - e. Accounting in a timely manner for all money and property received;
  - f. Counseling Principal as to any material benefits or risks of a transaction actually known;
  - g. Keeping the Principal informed regarding the transaction;
  - h. Assisting the Principal in complying with the terms and conditions of the contract.

The firm or its associates may not disclose the following information without the written consent of the Principal:

- 1) That the seller is willing to accept less than their listed price for the property;
- 2) What motivating factors are for the seller to sell the listed property?
- 3) That the seller will agree to finance terms other than those offered;
- 4) Any material information about the sell, unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealings;

***Any facts or suspicions regarding circumstances which may psychologically impact or stigmatize any real property pursuant to State Law.***

#### **F. Duties to the Seller or Buyer as a Transaction Broker Specific to Colorado**

It is the expectation of the corporation that all Associates will provide quality services to our client, with the intent of making their transactions as comfortable as possible. The corporation and its associates owe the following duties as a Transaction Broker:

- 1) To promote the interests of the principal with the utmost good faith, loyalty and fidelity; including, but not limited to:
  - a. Presenting all offers to and from the Parties in a timely manner, regardless of whether the buyer or seller is subject to a contract;
  - b. Disclosing to the Parties any adverse material facts that the Company is aware of;
  - c. Advising the Parties to obtain expert advice as to material matters which the Company knows about, but the specifics of which are beyond our expertise;
  - d. Accounting in a timely manner for all money and property received;
  - e. Keeping the Parties informed regarding the transaction;
  - f. Assisting the Parties in complying with the terms and conditions of the contract.
- 2) The Firm may not disclose the following information without the written consent of the appropriate Parties:
  - a. That the Parties are willing to take less or pay more than their listed price of offered price for the property;
  - b. What the motivating factors are for the parties;
  - c. That the Parties will agree to finance terms other than those offered;
  - d. Any material information about the Parties, unless:
    - i. the disclosure is required by law;
    - ii. the disclosure pertains to adverse material facts about buyer's or seller's financial ability to perform the terms of the transaction;
    - iii. the disclosure pertains to Buyer's intent to occupy the property as a principal residence; or
    - iv. failure to disclose such information would constitute fraud or dishonest dealing.

#### **G. Termination**

If you are fired by the Corporate Broker you will not be allowed to take your listings, or sales with you upon termination. You will be given written notice if you were fired and you will be given the reason why you were fired, and what the corporation will do next.



## V. When You Make a Sale

### ***IMPORTANT: Please read carefully***

The Company requires that all contracts executed by Sales Associates must be approved by the Manager within 5 days of execution (This includes listings, leases, management fee, deposit receipts, etc. – even if the contract is not accepted by the principals).

1. Make sure checks, notes, etc. are entered in the Pass through Trust Account – this is required by law on all offers, even if they are not accepted.
2. Upload entire contract in the file for review and initialing, including Listing Transfer Disclosure and Addendum, Agency Disclosure & Confirmation, Buyers Cost Sheet, and Home Warranty Waiver or Acceptance.
3. Open Escrow. Make sure you have all information necessary to give to the escrow officer and ask for one set of instructions to go to the corporate Broker.
4. Fill out the commission distribution.

## VI. Paperwork

- A. When you open Escrow, make sure you instruct the escrow officer to send a copy of the Preliminary Title Report and Structural Pest Control Inspection and Certification (if applicable to your state) to you for your file.
- B. When the Structural Inspection Report and the Preliminary Title Report come in, read them to make certain there are no unusual circumstances. See your Manager if you have any questions.
- C. Make sure you turn in all paperwork to be initiated and filed in the open escrow file.
- D. Make copies for yourself for your own personal file.
- E. Originals, when possible, are to be kept in the main office escrow file. Rule: The Originating Agent will keep the original file while the transaction is active and give to the main office after escrow is closed.
- F. The Associate will schedule a minimum of weekly follow ups with escrow and the client.
- G. Every time you talk to anyone associated with this escrow, note the date and time in writing on the escrow folder and a short synopsis of the conversation. This is an important habit to develop and will absolutely save you in the event of litigation!!

***NOTE: All unaccepted offers must be initialed by the manager. Make a file folder for it; mark it REJECTED, date it and upload it on the Agent Command Center. Checks on unaccepted offers are to be logged in and out of the Pass through Trust Account. There are No Exceptions.***

***Note: all files must be uploaded into the Agent Command Center with no exceptions.***

## VII. Listings

In addition to the paperwork required to be uploaded into the Agent Command Center when a listing is taken, please note the following:

1. Within 24 hours, the listing agent will input applicable information in the MLS system and upload a copy of the MLS along with all files associated with a new listing.
2. The listing agent will have full responsibility for updating the listing in the MLS and on property flyers and other marketing materials.
3. When the listing sells or expires, the listing agent should notify the manager to remove the copies from the filing system. All price changes should be kept current in the files and in the MLS system.
4. All escrow and listings files will be kept in the manager's files and will not be removed.

## VIII. Sales Activities and Scope of Duties

Your success as a member of our Company is a team effort. The Corporate Broker is committed to your success with the company and in the real estate industry. He/she will strive to always provide you with a pleasant and productive atmosphere. He/she will maintain an office, support staff, supplies and equipment as is reasonably necessary for the efficient operation of the Brokerage and your success. Your success and the office's success, however, also depend on you. As an associate with this company, you are expected to conduct yourself at all times in a professional businesslike manner. You are expected to be available in the office or by telephone or by pager during business hours. You are expected to return all calls within 24 hours after receipt unless other prior arrangements have been made. You will provide the Broker with your telephone/pager number(s) where you can be reached.

***NOTE: You may designate that the number(s) should only be used in case of emergency.***

You are expected to maintain an automobile or have reasonable access to private transportation. It must be clean, properly maintained and in safe operating condition at all times. You will need to have the corporation named as additional loss payee (see Insurance). You are encouraged to join and participate in professional organizations and civic groups to market yourself, the Brokerage and your listings. At **Closings** always be sure that the documents being signed are correct and that the commission checks are made out accurately. The Broker will review closing files for accuracy and completeness prior to issuing a commission check. During their first two years as new licensees, inexperienced agents must be accompanied by either the employing Broker or another experienced Broker when attending closings. If the Broker accompanies any experienced agent, or closes the file then the Broker is entitled to the commission and will pay a commission based upon performance only.

## **IX. Using Company Name, Logo, or APPS**

The company's name and logo(s) are registered trademarks. Whenever the company's name is used in print and on the Internet, the logo and name shall only be used in a format approved by management. This must be displayed on all of the agents advertising material, which include paper and electronic. State Law is very specific in these matters, and disciplinary issues will commence if the agent does not follow our Corporate policy, or State Law. A warning will be issued and a correction must be made within 24 hours. If the agent continues to follow our written instructions then the appropriate licensing agency will be notified, and action will be taken against the agent.

## **X. Advertising Requirements**

### **1. General Information**

Advertising is one of the most important tools for success in real estate; however, it must be used appropriately. As an associate and licensee, you have a legal and ethical obligation to always be truthful when advertising properties or services. Legally, you may be held liable for fraud, intentional misrepresentation, or negligent misrepresentation if you make material false statements or omissions in an advertisement. In addition, you may be subject to disciplinary action from the State of California, Colorado, Texas, Florida, Washington, Georgia, Arkansas, Utah or Nevada. Finally, licensees who place listings in the MLS system in expectation of compensation are responsible for ensuring that all representations are truthful in such listings which the licensee had knowledge or reasonably should have had knowledge of anyone injured by a falsehood or inaccuracy. All advertising must be truthful and not misleading. It must adhere to all state and federal advertising requirements as well as the N.A.R. Code of Ethics. Any false or misleading advertisement will be immediately withdrawn by the Broker and you will be terminated from the company.

### **2. Definition**

For our purposes, advertising means all display advertising, all classified advertising with any publication including newspapers and magazines, all mass mailing, flyers, postcards, newsletters, "Open House," "For Sale" signs and riders, billboards, business cards, and Internet or website.

***NOTE: All advertising must be approved by the Broker before production***

### **3. Guidelines**

If the advertisement states a specific finance charge, the charge must be expressed as an annual percentage rate (APR). If any of the following terms are used: a) the amount of the down payment; b) the amount of any installment payment; c) the dollar amount of any finance charge; d) the number of installments; or e) the period of repayment, then the advertisement **MUST** include all of the following specific terms: 1) down payment, b) terms of repayment; and c) rate of finance charge expressed as an APR.

***Note: Any advertisement of commission rates, discount points, reductions or incentives must be approved by the Broker prior to use.***

#### **4. Discriminatory Advertising**

This company has zero tolerance for any advertising that is discriminatory on the basis of race, color, religion, national origin, sex, handicap or disability, or familial status. Your advertisement should be “facilely neutral” and should not describe items in or using racial or ethnic terms.

- a) Avoid explicit preferential, limiting or discriminatory language based on religion.
- b) Avoid explicit exclusions, limitations or other indications of discrimination based on handicap or disability.
- c) Avoid explicit preference, limitation or discrimination based on familial status. The advertising may not contain limitations on the number or ages of children or state a preference for adults, couples or singles. (See Appendix B-8 for further information).

#### **5. Fair Housing/Discriminatory Advertising**

We live and work in a diverse and multicultural society. This office is committed to fair housing and equal opportunity in housing for all. This office does not tolerate discrimination on the basis of race, color, religion, sex, handicap or disability as defined by Title III of the Americans with Disabilities Act of 1990, familial status or national origin. This office is committed to adhering with all applicable local, state and federal fair housing laws. (See Appendix B-8 for further information).

## **XI. Working with Clients and the Public**

### **A. Showing Property**

Whenever possible, preview the property before showing. If you are familiar with the property you will be more effective when showing it to your client. Also, you may find that despite contrary representations, the property may not meet your client’s needs. Your time and your client’s and seller’s time are valuable, don’t waste it:

1. Follow the showing instructions provided on the MLS listing. Be sure to call the listing agent or seller if requested.
2. Give the seller an estimated time frame that you and your client expect to arrive. Please be prompt. If you cannot make it in the agreed upon time frame, please call the seller.
3. If no one is available, call the listing agent’s office for assistance.
4. Give the seller reasonable time to make the property ready to show.
5. If the listing agent/office or seller has not responded before you arrive or if you are using the lockbox, go to the door first without your client.
6. When using a lockbox, always ring the doorbell and/or knock loudly several times before entering the property.
7. If the seller is home, respectfully explain that you want permission to show the property and ask for access.
8. If no one answers or no is there, enter the property first and announce your presence to be sure, e.g. “Hello, Realtor here. Is anyone home?”
9. Guide your client through the property. Open window coverings and turn on lights as

needed. Do not leave your client unattended to prevent blame from the seller if any items are broken or missing from the property later.

10. Allow sufficient time for your client to see the property. Be aware to look for any potential “red flags” about the property (Disclosure).

11. When finished, make sure to turn off the lights and reset any alarms and door locks. Leave your card inside the property in a conspicuous place.

12. If you do not show the property, call the seller or listing agent as soon as possible to cancel.

## **XII. Maintain a Proper File**

Your files are a record of every event relative to your client and/or the listing. You must maintain a neat and orderly file on every client/listing with whom/which you work. All files are the property of the Broker and are to remain either in your possession or the Broker’s possession until the file is closed. All closed files will remain with the Broker for storage for a minimum of five (7) years pursuant to the Laws of Texas, Colorado, California, Florida, Washington, Georgia, Utah, Arkansas, and Nevada whereupon they may be destroyed at the Corporate Broker’s discretion. All files (sales or listing contracts whether accepted or not) must be uploaded into the company’s paperless Online TC system ***within 5 days of execution***. Any file added after this period of time constitutes a serious violation of company’s policy & procedure and state laws.

At company’s discretion, the agent will be disciplined accordingly:

1. If the file is not uploaded within 30 days of closing the agent will not receive the normal split.
2. If any file is uploaded after completion of the deal the agent automatically goes into Probation.
3. If the company has to upload any file for an agent the agent automatically goes onto Probation.

Specifically, if the Broker becomes responsible for the file and has to complete the agent’s file then the agent will not be paid a commission for all of the files.

- ) Five (5) days after the fully executed contract
- ) Ten percent (10%) per month until the file is completed
- ) If Broker completes the file, the Agent will not earn commission

## **XIII. Broker Review**

You must submit all documents to the Broker or his/her designee within 24 hours after receipt by you. All of these documents and files must be uploaded into the Agent Command Center. The Broker will review the document for completeness and accuracy. Any incomplete or incorrect items or documents must be corrected and returned to the Broker within 24 hours after review

and return the document to you. Your Corporate Broker has a sample file for your use as a guide for proper record keeping. Consult your Corporate Broker if you are not sure how to maintain a proper file. There are no exceptions.

***Your file must contain:***

- ) An accurate, comprehensive telephone log and journal of your activities relative to that file/client/listing. Anytime you do anything relative to the file, you must make a journal entry in the file.
- ) A checklist and calendar of important information and deadlines.
- ) Copies of all correspondence, including emails to your client.
- ) Copies of all offers and counter-offers and contract addenda
- ) Copies of all disclosures and reports and any other written information delivered to you or your client. Anytime your client receives a written document regarding the transaction, you must obtain a copy of that document for your file.

If the Broker becomes responsible for the file and has to complete the agents file then the agent will not be paid a commission for all of the files.

- ) Five (5) days after the contract written
- ) Ten percent (10%) per month until the file is completed
- ) If Broker completes the file, the Agent will not earn commission

**Broker's duty of supervision:** A Broker has a duty to supervise all salespersons employed by the Broker whether they work under a contract that describes the salesperson as an employee or independent contractor for tax purposes. The supervision obligation includes establishing policies, rules, procedures, and systems to review, oversee, inspect, and manage all transactions and advertising that require a license, documents that may have a material effect on the rights or obligations of a party to the transaction, the handling of trust funds, and reports of the activities of salespersons. The form and extent of such policies, rules, procedures, and systems can consider the number of salespersons employed and the number and location of branch offices. A Broker may use the assistance of employed Brokers and salespersons as long as the Broker retains the overall responsibility for supervision.

**Supervision of salespersons Contracted by The Corporate Broker:** When the Broker is a corporation, the licensed Broker who is the designated responsible managing Broker and qualified the corporation for the license has the supervision duty on behalf of the corporation. He or she is responsible for the supervision and control of the activities on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required. If a corporation has procured more than one license through various corporate officers, the corporation may, by appropriate resolution of its board of directors, assign supervisory responsibility of the corporation's salespersons to any of its Broker-officers.

**Broker's liability for acts of a salesperson:** Regardless of the contractual relationship between the Broker and the salesperson that designates the salesperson as an independent contractor, they each retain all of their obligations to the public and to the Commissioner, including the liability of the Broker to third persons and the principal for the tortuous conduct of the salesperson. Any contract provision purporting to limit that liability is contrary to law.

***This is the basis for The Corporate Broker to have oversight of all transaction at the Corporation. If the agent refuses to comply then there will be civil issues applied to the agent's inability to comply with the Corporate Brokers written request. This will be enforced. No Exceptions!***

#### **XIV. Get it in Writing**

As a general rule, all agreements must be in writing. In fact, if you do not have a written agreement with the principal, you may not receive your commission. If you discuss anything with any party or other Broker/agent, always confirm your discussions and understanding with a written follow up to that party or Broker/agent. Always leave a copy of any signed document with the party who signed it. Never sign anything on behalf of your client, another agent or anyone else.

#### **XV. The Listing/Management/Commission Agreement**

##### **A. Commission**

The Firm requires that a compensation agreement be in writing and signed by the party to be charged in order to be enforceable. If you represent a buyer in a for-sales-by-owner and the buyer is to pay a commission, you must have a written agreement with the buyer to pay that commission such as a Buyer-Broker Agreement. If the seller is to pay the commission, you must have a written agreement as an addendum to the Purchase Agreement. All agreements must be uploaded to the Agent Command Center.

##### **B. Listing Agreement**

Unless approved in advance by the Broker, all listings will be "Exclusive" listings. All listing and management agreements will be taken on the most current forms designated by the specific State, or Association, or other form approved by the Broker. *Do not use outdated forms.* You must have the sellers/owner's signature before you may begin marketing the property. If someone signs on behalf of the seller/owner, you must have written evidence of the authority to act, such as a Power of Attorney or letter of administration, etc. If a party refuses to sign the listing/agreement, notify the signing parties in writing that this office's policy is to not market the property until all parties have signed the agreement. Before taking the listing, search the MLS to determine whether or not the property is currently listed with another Broker. It is this office's policy to not take a new listing until the existing listing has expired. Commission reductions are acceptable if approved by the Corporate Broker in advance, and in writing. All Listing Agreements

must have a beginning and an end date to be valid.

***NOTE: You may enter into a listing agreement now which will not become effective until after the prior agreement has expired.***

If the property is in escrow, you have a fiduciary duty to the seller to continue marketing the property unless the seller agrees otherwise. Make sure the listing does not expire before close of escrow. Get all modifications or extensions in writing.

## **XVI. Offers to Purchase**

You must present ALL offers to the seller, even if the property is in escrow, unless the seller has given you written instructions to the contrary. Upon receiving the offer, review it thoroughly for completeness, accuracy and clarity. Pay close attention to time limits set out in the offer, ESPECIALLY the time within which the seller must respond. Call the selling agent, obtain some background information about the buyer and clarify any ambiguities in the offer. Notify the seller promptly that you have received the offer. Make an appointment as soon as possible to present the offer. If the selling agent insists on presenting the offer, excuse him/her from the room afterward and hold your discussions with your client in privacy.

As with all contracts, you must obtain all parties' signatures. If a party signs on behalf another you must have evidence of that person's authority to do so in writing. If you must present an offer that is missing a signature, you must disclose this fact to the seller/listing agent. Be sure to condition the offer on the obtaining any missing signature. If your clients receive a counter offer, be sure the terms are clear and complete. Be sure to review it against the Purchase Agreement. Remember, if there is no meeting of the minds, generally, there is no contract.

***NOTE: You must adhere to all time requirements stated in the Purchase Agreement and escrow instructions unless all parties agree in writing to the contrary.***

## **XVII. Mediation and Arbitration**

There are significant legal consequences associated with mediation and arbitration. You are not an attorney and should never give legal advice. If your clients have a legal question about mediation or arbitration, they should be advised to contact their attorney. This office encourages you to refer to the specific State to consult the mediation and arbitration guidelines. Mediation and Arbitration will be performed by JAMS associated with the state and location that JAMS provides. This is a serious issue, and it is not the agent's responsibility to act as an attorney, nor is it the responsibility of the agent to give legal advice. All contract disputes between the agent and the firm will be disputes through JAMS only. The agent waives their rights to any other mechanism other than a civil court.



## **XVIII. Escrow & Title Compliance**

Upon acceptance of the offer, arrange for an opening of escrow, Title, or an attorney. Have your client's and the office's instructions uploaded to the Agent Command Center. Review all documents with offers, counter offers, and commission authorization for completeness and accuracy. Please review the policy of the Agent Command Center. Explicit instructions are also on the Agent Command Center.

***NOTE: Wording that the commission is due and/or payable "upon the close of escrow" is not acceptable.***

## **XIX. Corporate Policy on Agency**

This Firm recognizes two general forms of agency:

1. Single Agency: (Listing Agent or Selling Agent) – If the office represents the seller only, we are the "Listing Agent," or if the office represents the buyer only, we are the "Selling Agent."
2. Dual Agency in California and Colorado – If the office represents both the buyer and the seller in California or Colorado only;
3. and the following State specific agency laws provided below:

### **Florida Agency Law:**

**475.278 Authorized brokerage relationships; presumption of transaction brokerage; required disclosures.—**

#### **(1) BROKERAGE RELATIONSHIPS —**

**(a) Authorized brokerage relationships —** A real estate licensee in this state may enter into a brokerage relationship as either a transaction broker or as a single agent with potential buyers and sellers. A real estate licensee may not operate as a disclosed or nondisclosed dual agent. As used in this section, the term "dual agent" means a broker who represents as a fiduciary both the prospective buyer and the prospective seller in a real estate transaction. This part does not prevent a licensee from changing from one brokerage relationship to the other as long as the buyer or the seller, or both, gives consent as required by subparagraph; (3)(c)2. before the change and the appropriate disclosure of duties as provided in this part is made to the buyer or seller. This part does not require a customer to enter into a brokerage relationship with any real estate licensee.

**(b) Presumption of transaction brokerage —**It shall be presumed that all licensees are operating as transaction brokers unless a single agent or no brokerage relationship is established, in writing, with a customer.

**(2) TRANSACTION BROKER RELATIONSHIP** — A transaction broker provides a limited form of representation to a buyer, a seller, or both in a real estate transaction but does not represent either in a fiduciary capacity or as a single agent. The duties of the real estate licensee in this limited form of representation include the following:

- (a) Dealing honestly and fairly;
- (b) Accounting for all funds;
- (c) Using skill, care, and diligence in the transaction;
- (d) Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- (e) Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- (f) Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
- (g) Any additional duties that are mutually agreed to with a party.

**(3) SINGLE AGENT RELATIONSHIP** —

**(a) Single agent—duties** — The duties of a real estate licensee owed to a buyer or seller who engages the real estate licensee as a single agent include the following:

- 1. Dealing honestly and fairly;
- 2. Loyalty;
- 3. Confidentiality;
- 4. Obedience;
- 5. Full disclosure;
- 6. Accounting for all funds;
- 7. Skill, care, and diligence in the transaction;
- 8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and

9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

**(b) Disclosure requirements —**

**1. Single agent disclosure —** Duties of a single agent must be fully described and disclosed in writing to a buyer or seller either as a separate and distinct disclosure document or included as part of another document such as a listing agreement or other agreement for representation. The disclosure must be made before, or at the time of, entering into a listing agreement or an agreement for representation or before the showing of property, whichever occurs first. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of a single agent, except that the first sentence of the information identified in paragraph (c) must be printed in uppercase and bold type.

**2. Transition to transaction broker disclosure —** A single agent relationship may be changed to a transaction broker relationship at any time during the relationship between an agent and principal, provided the agent first obtains the principal's written consent to the change in relationship. This disclosure must be in writing to the principal either as a separate and distinct document or included as part of other documents such as a listing agreement or other agreements for representation. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of limited representation, except that the first sentence of the information identified in subparagraph; (c)2. must be printed in uppercase and bold type.

**(c) Contents of disclosure —**

**1. Single agent duties disclosure —** The notice required under subparagraph; (b)1. must include the following information in the following form:

**SINGLE AGENT NOTICE**

**FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.**

As a single agent, (insert name of Real Estate Entity and its Associates) owe to you the following duties:

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;

4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

Date

Signature

**2. Transition disclosure** — To gain the principal's written consent to a change in relationship, a licensee must use the following disclosure:

**CONSENT TO TRANSITION TO TRANSACTION BROKER**

**FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.**

**As a transaction broker, (insert name of Real Estate Firm and its Associates), provides to you a limited form of representation that includes the following duties:**

1. Dealing honestly and fairly;
2. Accounting for all funds;
3. Using skill, care, and diligence in the transaction;
4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will

prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and

7. Any additional duties that are entered into by this or by separate written agreement.

Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when acting as a transaction broker to both parties.

**I agree that my agent may assume the role and duties of a transaction broker. [must be initialed or signed]**

**(4) NO BROKERAGE RELATIONSHIP —**

**(a) No brokerage relationship—duties —** A real estate licensee owes to a potential seller or buyer with whom the licensee has no brokerage relationship the following duties:

1. Dealing honestly and fairly;
2. Disclosing all known facts that materially affect the value of the residential real property which are not readily observable to the buyer; and
3. Accounting for all funds entrusted to the licensee.

**(b) Disclosure requirements —** Duties of a licensee who has no brokerage relationship with a buyer or seller must be fully described and disclosed in writing to the buyer or seller. The disclosure must be made before the showing of property. When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of a licensee that has no brokerage relationship with a buyer or seller, except that the first sentence of the information identified in paragraph (c) must be printed in uppercase bold type.

**(c) Contents of disclosure —** The notice required under paragraph (b) must include the following information in the following form:

**NO BROKERAGE RELATIONSHIP NOTICE**

**FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER DISCLOSE THEIR DUTIES TO SELLERS AND BUYERS.**

**As a real estate licensee who has no brokerage relationship with you, (insert name of**

**Real Estate Entity and its Associates) owe to you the following duties:**

1. Dealing honestly and fairly;
2. Disclosing all known facts that materially affect the value of residential real property which are not readily observable to the buyer.
3. Accounting for all funds entrusted to the licensee.

(Date) (Signature)

**(5) APPLICABILITY —**

**(a) Residential sales —** The real estate licensee disclosure requirements of this section apply to all residential sales. As used in this subsection, the term “residential sale” means the sale of improved residential property of four units or fewer, the sale of unimproved residential property intended for use of four units or fewer, or the sale of agricultural property of 10 acres or fewer.

**(b) Disclosure limitations —**

1. The real estate disclosure requirements of this section do not apply when a licensee knows that the potential seller or buyer is represented by a single agent or a transaction broker; or when an owner is selling new residential units built by the owner and the circumstances or setting should reasonably inform the potential buyer that the owner’s employee or single agent is acting on behalf of the owner, whether because of the location of the sales office or because of office signage or placards or identification badges worn by the owner’s employee or single agent.

2. The real estate licensee disclosure requirements of this section do not apply to: nonresidential transactions; the rental or leasing of real property, unless an option to purchase all or a portion of the property improved with four or fewer residential units is given; a bona fide “open house” or model home showing that does not involve eliciting confidential information, the execution of a contractual offer or an agreement for representation, or negotiations concerning price, terms, or conditions of a potential sale; unanticipated casual conversations between a licensee and a seller or buyer which do not involve eliciting confidential information, the execution of a contractual offer or agreement for representation, or negotiations concerning price, terms, or conditions of a potential sale; responding to general factual questions from a potential buyer or seller concerning properties that have been advertised for sale; situations in which a licensee’s communications with a potential buyer or seller are limited to providing general factual information, oral or written, about the qualifications, background, and services of the licensee or the licensee’s brokerage firm; auctions; appraisals; and dispositions of any interest in business enterprises or business opportunities, except for property with four or fewer residential units.

**Colorado’s Relationships Law:**

Pursuant to CRS 12-61-802(1.5), an Employing Broker or Broker Associate must be designated

in writing by the Employing Broker to serve as a Single Agent or Transaction Broker for a seller or buyer. No Agent will serve as a Single Agent or Transaction Broker without written designation from the Managing Broker. No Agent may represent more than one party to any particular transaction. A Transaction Broker serves the transaction, but does not represent either party. Brokerage relationships are established between the client and the designated Broker or agent only. In the past, the real estate firm and all of its Broker associates were presumed to represent the client. The Colorado Real Estate Brokerage Relationships Act was modified by SB-196 effective January 1, 2003.

The bill called **Designated Brokerage** eliminated *sub agency* and *dual agency*. Also eliminated was the *vicarious liability* of the principal for acts of the Broker that were not approved, directed or ratified by the principal. The agency relationship is now owned by the Broker associate only and does not extend to fellow Broker associates, then managing Broker, or the Brokerage; however, the contract between the Broker associated and the buyer or seller is still owned by the Broker and the firm. All agents are considered transaction Brokers unless a written agency agreement is executed with a buyer or seller. Associates shall proceed with the public as a single agent, transaction with whom the Broker or customer. Under the new law, "customer" is defined to mean "a party to a real estate transaction with whom the Broker has no Brokerage relationship because such party has not engaged or employed a Broker." A Single Agent may have confidential information regarding a transaction. They are legally bound NOT to share that information with other parties to the transaction unless authorized by the party they represent. A Single Agent may advise the party they represent. A Transaction Broker has no responsibility to any party to a transaction. A Transaction Broker should not "side" with anyone; their purpose is to complete the transaction as directed by the contract. A Transaction Broker should not act on any confidential information that they have acquired or advise any party to the transaction beyond the legal disclosures. The new law applies to all activities for which a real estate license is required in Colorado, and governs the relationships between the real estate Brokers and sellers, landlords, buyers, and tenants. The only situation where designated Brokerage does *not* apply is when a Brokerage firm consists of only one person. When the designated Broker is a team, the entire team is presumed to have *imputed knowledge* of the listing or transaction. Under the new relationship, "clients" are only vicariously liable for acts of the agent designated in writing to representing them, and only if the client approves, directs or ratifies the agent's acts.

**Corporate Agency Choices:** Corporate policy in any real estate transaction is as follows: an Associate may act as a Single Agent (seller's Agent or buyer's Agent) or Transaction Broker. A Single Agent represents either a buyer or seller exclusively. A Transaction Broker or Intermediary will assist one or more parties in a transaction, with contract terms, legal compliance and communication, but does not represent the seller nor the buyer as an Agent. Associates are to give customers a copy of the **Definitions of Working Relationships, Information about Brokerage Services, and the Disclosure of Agency form**, at their first meeting and shall proceed as a Transaction Broker or Single Agent. Associates are to act as a Transaction Broker when working with both parties to a contract. The only exception is when working with

a buyer on the purchase of a *FSBO (Fissbo)*. Broker Associates shall then have the option to treat the seller as a Customer.

***Any deviation from the Firm's established agency policy must have written Managing Broker approval.***

Although we will cooperate with other Brokers and agree to split the commissions, we generally do not offer sub-agency to other Brokers, and this needs to be approved by the Corporate Broker. Remember, the agency relationship is created through the Broker. If you have listed the property and another associate from our firm brings in an offer from a buyer, a dual agency will be created.

**Nevada Agency Law:**

Under general agency law, agency occurs when one person (the agent), with the consent of another person (the principal), undertakes to represent and act on the principal's account with third-persons and usually in business matters. It is voluntary, consensual and as a rule - when dealing with real property – is founded upon an express or implied contract. Nevada recognizes two types of agency concerning real property: first, there is general agency in which the agent is authorized under a general power-of attorney to perform all duties for the principal that the principal could perform to convey real property (general agency requires a written power-of-attorney with its special recording requirements); second, there is special agency in which the agent is given limited authority to act for the client within certain restrictions and for specific transactions. Real estate Brokerage agreements create a special agency wherein the Broker's authority is limited to facilitating a real estate transaction for his or her principal. Unless otherwise noted, all agency referred to in *The Nevada Law and Reference Guide*, is concerned with real estate agency in which the Broker is the agent of the client. Nevada's real estate Brokerage statutes (NRS 645) defines "agency" as the relationship between a principal (client) and an agent (Broker) arising out of a Brokerage agreement in which the agent agrees to do certain acts on behalf of the principal in dealings with a third party. Real estate related acts are identified in the definition of "Brokerage agreement" and include the Broker assisting, soliciting or negotiating the sale, purchase option, rental or lease of real property, or the sale, exchange, option or purchase of a business. However, by statute, an agency relationship cannot be established solely from a licensee's negotiations or communications with a client of another Broker if the licensee has received written permission from that party's Broker. A Brokerage agreement is an employment contract wherein the Broker agrees to provide real estate related services for valuable consideration or compensation. It may be either oral or written. The client does not need to be the one paying the Broker's compensation. The compensation may be paid to the Broker by either the client or another person. Though the Brokerage agreement is an employment contract, without some type of alternative agreement, a real estate Broker is an independent contractor and not the employee of the client. Real estate related services include, but are not limited to, any of the following acts: the negotiation of, or the sale, exchange, option, purchase, rent or lease, of any interest in real estate (improved or unimproved); any modular, used manufactured or mobile home (when conveyed with any interest in the underlying real estate); public lands; or in a business. It



also covers the listing or soliciting of prospective purchasers, lessees or renters, or the taking of an advance fee. Once agency is established, all the duties and responsibilities of representation attach to the Broker (and through the Broker, to the Broker-salesperson or salesperson). Those duties are found in statute (NRS), administrative regulation (NAC), and as expanded upon in case law (Nevada Reports). Nevada does not recognize “transactional” agency, or limited agency representation. Transactional agency is where the Broker agrees that he or she is not representing either party but only is hired to facilitate the transaction. Limited agency is a truncated form of agency wherein the Broker contractually limits his duties and liabilities with the client by agreeing to perform only certain acts of representation. In Nevada, with one exception, no duty of a licensee as found in NRS 645.252 or NRS 645.254, may be waived. This is true even if a client and Broker agree by contract to limit the Broker’s duties; legally, the Broker is always vested with the full duties, responsibilities and liabilities of representation identified in law. To ensure a client understands the licensee’s basic duties, the licensee is required to provide the client and each unrepresented party with a state mandated form called the “Duties Owed by a Nevada Real Estate Licensee”.

**a. Single or sole agency** – *Single agency is the most common form of agency and the one least likely to create liability for a Broker. Single agency is where the Broker represents only one party in a given transaction. The Broker’s duty, loyalty and responsibilities are focused on promoting the interests of that client.*

**b. “Acting for More Than One Party to the Transaction”** – *Nevada law provides that a Broker may represent more than one party in a real estate transaction. “The same person or entity may act as the agent for two parties interested in the same transaction when their interests do not conflict and where loyalty to one does not necessarily constitute breach of duty to the other.”*

When representing more than one party in a transaction, the Broker must disclose this representation and obtain the written consent of each party before proceeding. There are several types of possible multiple representations. The most typical is where a Broker seeks to represent both the buyer and seller. Not as prevalent but more common in sellers markets (where there are more buyers than properties), is when the Broker represents two or more buyers in competition with each other for a single property. Theoretically, a Broker could also simultaneously represent a seller and multiple competing buyers. Under existing law, regardless of which parties are being represented, seller and buyer or another mixture, each party must be given a Consent to Act form and the opportunity to reject this type of agency relationship. Even though a licensee acting for more than one party to the transaction is permitted by law, the law does not provide for any modification of a Broker’s duties when representing multiple clients with adverse interests. The Broker (and each licensee under him or her) owes to each client all of the duties provided for in law. The law does acknowledge such representation creates a conflict of interest in the licensee as the clients have interests opposed to one another. The state mandated disclosure form, called “Consent to Act”, outlines for the client the consequences of the licensee’s multiple representation and requires the client’s written authorization before the licensee may proceed with such representation. The Consent to Act form is designed with the seller/landlord and buyer/tenant

relationship in mind but may be reasonably altered to reflect various combinations of conflicts of interests, i.e., buyer versus buyer. Every licensee must be aware of the appearance of such undisclosed representation. For example, undisclosed representation may inadvertently occur when a licensee representing a seller provides the buyer with client services such that the buyer is under the reasonable expectation that the licensee is working for him. Another scenario is when a seller's agent seeks to concurrently represent a buyer in the sale of the buyer's other properties without disclosing that relationship to the seller. Unless the licensee makes each party fully aware of the licensee's lines of representation, the licensee may be participating in an undisclosed multiple representation.

**c. Assigned Agency** – *To lessen the conflict of interest impact created when a Broker represents more than one party in a transaction, the law provides an “Ethical Wall” wherein the Broker is allowed to assign a separate agent to each client. Upon this assignment the Broker does not need to use the “Consent to Act” disclosure form nor receive the approval of the clients. Black’s Law Dictionary defines an “Ethical Wall” as a legal construct designed to shield (in our case) a Broker from the liability of multiple party representation. It prohibits the respective assigned agents from exchanging the confidences of the clients and restricts the transfer and distribution of the clients’ personal information and documents. The statute reiterates the licensee’s duty of confidentiality to his or her assigned client. To ensure a client’s confidences are not inadvertently disclosed, the Broker should assure that assigned client’s files are kept apart and secured.*

**d. Change in Licensee’s Relationship** – *A licensee must disclose to each party in a real estate transaction when the licensee’s relationship with any party changes. The disclosure must be made as soon as practicable and must be in writing. A new Duties Owed form should be provided to each client. If a client’s consent is required (as in when acting for two or more parties to the transaction) consent must be obtained – disclosure alone is insufficient to ensure consent.*

## **Texas Agency Law:**

*Duties of Intermediary prevails.*

- a. The duties of the license holder acting as an intermediary under this subchapter supersede the duties of a license holder established under any other law, including common law.*
- b. A Broker must agree to act as an intermediary if the Broker agrees to represent in a transaction:*

- 1. A buyer or a tenant, and*
- 2. A seller or landlord.*

### **IF THE BROKER REPRESENTS THE OWNER:**

The Broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of sub-agency from the listing Broker. A subagent may work in a different real estate office. A listing Broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would

not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

#### **IF THE BROKER REPRESENTS THE BUYER:**

The Broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

#### **IF THE BROKER ACTS AS AN INTERMEDIARY:**

A Broker may act as an intermediary between the parties if the Broker complies with The Texas Real Estate License Act. The Broker must obtain the written consent of each party to the transaction to act as an intermediary.

The written consent must state who will pay the Broker and, in conspicuous bold or underlined print, set forth the Broker's obligations as an intermediary. The Broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A Broker who acts as an intermediary in a transaction: (1) shall treat all parties honestly; (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner; (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and (4) may not disclose any confidential information or any information that a party specifically instructs the Broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property. With the parties' consent, a Broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the Broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the Broker to communicate with and carry out instructions of the other party.

#### **If you choose to have a Broker represents you...**

should enter into a written agreement with the Broker that clearly establishes the Broker's obligations and your obligations. The agreement should state how and by whom the Broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a Broker does not necessarily establish that the Broker represents you. If you have any questions regarding the duties and responsibilities of the Broker, you should resolve those questions before proceeding.

### **Utah Agency Law:**

#### **What Is "Agency" In Real Estate?**

In real estate, "agency" is the highest level of representation an agent can perform. It requires

certain fiduciary duties such as obedience, loyalty, accounting, reasonable care, client confidentiality and full disclosure. In order to be a legal agent to a client, real estate agents must have their clients sign an agency agreement.

In this agreement it states clearly the agent will represent you as a fiduciary, which means they must perform and act in your best interests following these six lawfully mandated duties. Let's break these down into their individual aspects so you know how your real estate agent is legally bound to perform for you:

### **Obedience**

A real estate agent must obey your instructions as long as they are lawful and in accordance with the agency agreement contract. For example, if you're selling your home and you receive two identical offers but you don't like agent A and you instruct your agent to only deal with agent B, they have to obey. They may not like it, but you have control over the transaction.

Another example, if you're a buyer and you submit an offer and the sellers counter unreasonably in your mind. You can tell your agent how to perform and they must obey. If you want to let the contract die because the seller isn't being reasonable, your agent must follow your instructions even if they lose out on a commission.

### **Loyalty**

Your real estate agent must be loyal and must put your best interest ahead of any other party in the transaction, including their own. If your agent is worrying about their commission instead of negotiating the best deal for you, they are not being loyal and are in breach of their fiduciary duty. Confidentiality is a component of loyalty as your agent can not disclose anything without your consent. For example, if you're negotiating an offer and your buyer's agent tells the seller's agent how much you can qualify for without your consent, this would be a breach of loyalty. You would then have the grounds to sue this agent for breach of contract.

### **Accountability**

Your agent is responsible to you as well as their governing body to be accountable for all documents and funds relating to your real estate transaction. Their Brokerage is required to document all contracts signed, documents submitted, and any earnest money deposited. Keeping orderly, up to date, and valid documentation is a fiduciary responsibility.

### **Reasonable Care**

Reasonable care is a tricky rule as a real estate agent. It's very broad and can mean many things, but it mostly focuses on competence. As a real estate agent, we are expected to be competent in a real estate transaction. We are expected to be able to advise and guide our clients through the real estate process without harm. The words "reasonable care" are usually defined by a judge and jury, because, if this rule has to be defined, you're likely to be sitting in court unhappy with your agent's performance.

No matter if you're selling or buying, your agent is expected to advise you on pricing, negotiations, repairs, inspections, real estate contracts, and many other facets of a transaction. They must also refrain from giving you legal advice, tax advice, or any other advice that a real estate agent shouldn't be giving. Agents are not lawyers, mortgage professionals, or tax accountants. If your agent gives you advice related to these professions, they are in breach of their fiduciary duty.

## **Client Confidentiality**

A real estate agent's duty as a confidentiality is pretty straight forward. We are not allowed to disclose your business information, financial records, personal affairs, or your motivations. As a real estate agent, this is pretty easy for me, and it should be for any agent. There is no reason for us to discuss client information with anyone before, during, or after a transaction. The only way we can legally disclose your information is if it's required by the courts.

## **Full Disclosure**

Utah law requires a real estate agent, no matter if they are in an agency relationship or not, to disclose material facts to their clients. Material facts are those that are known by either the buyer or seller which might cause them to change their purchase or sale actions. Some common examples are leaky roofs, bad wiring or plumbing, flooded basements, bad septic tanks, permit or code violations, shoddy remodeling or construction, and underlying structural problems not readily observable.

Another thing to keep in mind is that a real estate agent is lawfully obligated to disclose any knowledge they have which benefits their clients. For example; if your agent knows how much the seller owes on their home or that they are in a financially stressed situation, they should disclose to aid in your negotiations. If you're selling a home and your agent is related to the buyer, they are required to disclose.

## **Real Estate Agent Representations**

Now that you know how an agent is supposed to perform their duties, let's go over how these affect an agent's performance with different types of representation. During a transaction, a real estate agent can be a sole representative of the seller, a sole presenter of the buyer, or a limited agent.

The types of representation provided by your agent should be fully disclosed to all parties involved in the transaction. Here are some common scenarios of "agency" for both buyers and sellers:

### **Sellers Agent**

If you decide to list your home with a real estate agent, you will be required to sign a listing agreement. The listing agreement defines your agency relationship with your agent and sets the parameters of the sale of your home. This agreement authorizes the agent to be in an "agency" role in your dealings with buyers as they work on negotiating the sale of your home.

### **Duties to Seller**

Once you sign the listing agreement you are now in an "agency" relationship with your agent. Your agent must now follow the six laws of agency as described above. You should avoid telling a listing agent anything you don't want a buyer to know until you sign this contract.

If you discuss your financial information and decide not to list with that agent, if they have a buyer who's interested in your home, they can and will disclose that information to their buyers giving you a disadvantage.

### **Services**

Each real estate firm is different in the services they provide. There are firms who only put your home on the MLS and you'll never hear from them again. And there are firms who provide full service that provide you with an array of marketing options. You need to decide what type of

services you want and then chose the agent who can provide those services.

### **Limited Agent**

A limited agent in Utah is limited in the duties they can provide as they represent both the buyer and a seller in a transaction. It's up to you to decide if you are willing to allow limited agency in your listing agreement. You will lose some services your agent can provide, but you might be able to get a discount on commission if you only have to pay one agent.

Here is what the Limited Agency Consent Agreement from Utah Association of REALTORS says:

*"A Limited Agent represents both seller and buyer in the same transaction and works to assist in negotiating a mutually acceptable transaction. A Limited Agent has fiduciary duties to both seller and buyer.*

*However, those duties are "limited" because the agent cannot provide to both parties undivided loyalty, full confidentiality and full disclosure of all information known to the agent. For this reason, a Limited Agent must remain neutral in the representation of a seller and buyer, and may not disclose to either party information likely to weaken the bargaining position of the other; such as, the highest price the buyer will pay or the lowest price the seller will accept.*

*A Limited Agent must, however, disclose to both parties material information known to the Limited Agent regarding a defect in the Property and/or the ability of each party to fulfill agreed upon obligations, and must disclose information given to the Limited Agent in confidence, by either party, if the failure to disclose would be a material misrepresentation regarding the Property."*

### **Buyers**

As a buyer there are a couple options for agency representation. You can work solely with a buyer's agent who only represents you. You can choose to work with the seller's agent while the seller's agent represents the seller. Or, you can chose to work with a limited agent (sometimes called dual agent).

### **Duties to Buyer**

When working with a buyer's agent you can have express or implied agency. Express agency is where you have expressed you want to hire them as a buyer's agent or have a written agreement expressing agency. In Utah, agency is only legally binding if it's in writing.

Implied agency is where an agency relationship is created by the actions of the agent. If they take on responsibilities that are normally those of an agent, but you haven't signed an agency agreement, they can still be considered an agent. Basically, if you are led to believe the real estate agent is your agent, this is called implied agency.

Once you have expressed agency with a buyer's agent, you are now in an "agency" relationship. Again, your agent must now follow the six laws of agency as described above while acting as your fiduciary. Keep in mind, a real estate agent can still disclose information you tell them until you are partake in expressed agency, so don't divulge any information you don't want a seller to know.

### **Limited Buyers Agent**

A limited buyer's agent is basically the same thing as a limited agent for a seller. The agent is limited in the services they can provide as they represent both buyer and seller. As a buyer, if you decide to work with the seller's agent, you will be allowing a limited agent represent you. The

agent must remain neutral through the transaction and it's up to you to look out for your own interests during negotiations.

## **Washington Agency Law:**

### **18.86.020. Agency Relationship.**

1. A licensee who performs real estate Brokerage services for a buyer is a buyer's agent unless the:
  - a. Licensee has entered into a written agency agreement with the seller, in which case the licensee is a seller's agent;
  - b. Licensee has entered into a sub-agency agreement with the seller's agent, in which case the licensee is a seller's agent;
  - c. Licensee has entered into a written agency agreement with both parties, in which case the licensee is a dual agent;
  - d. Licensee is the seller or one of the sellers; or
  - e. Parties agree otherwise in writing after the licensee has complied with RCW 18.86.030(1)(f).
2. In a transaction in which different licensees affiliated with the same Broker represent different parties, the Broker is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such a case, each licensee shall solely represent the party with whom the licensee has an agency relationship, unless all parties agree in writing that both licensees are dual agents.
3. A licensee may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the licensee complies with this chapter in establishing the relationships for each transaction.

### **18.86.030. Duties of a Licensee.**

1. Regardless of whether the licensee is an agent, a licensee owes to all parties to whom the licensee renders real estate Brokerage services the following duties, which may not be waived:
  - a. To exercise reasonable skill and care;
  - b. To deal honestly and in good faith;
  - c. To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;
  - d. To disclose all existing material facts known by the licensee and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the licensee has not

- agreed to investigate;
- e. To account in a timely manner for all money and property received from or on behalf of either party;
  - f. To provide a pamphlet on the law of real estate agency in the form prescribed in RCW 18.86.120 to all parties to whom the licensee renders real estate Brokerage services, before the party signs an agency agreement with the licensee, signs an offer in a real estate transaction handled by the licensee, consents to dual agency, or waives any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2)(e) or (f) whichever occurs earliest; and
  - g. To disclose in writing to all parties to whom the licensee renders real estate Brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate written document entitled "Agency Disclosure."
2. Unless otherwise agreed, a licensee owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the licensee to be reliable.

**18.86.040. Seller's Agent - Duties.**

1. Unless additional duties are agreed to in writing and signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:
  - a. To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;
  - b. To timely disclose to the seller any conflicts of interest;
  - c. To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;
  - d. Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and
  - e. Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.
2.
  - a. The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.
  - b. The representation of more than one seller by different licensees affiliated with



the same Broker in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

**18.86.050. Buyer's Agent - Duties.**

1. Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:
  - a. To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;
  - b. To timely disclose to the buyer any conflicts of interest;
  - c. To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;
  - d. Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and
  - e. Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f) of this act, to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent.
2.
  - a. The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breaches the duty of loyalty to the buyer or creates a conflict of interest.
  - b. The representation of more than one buyer by different licensees affiliated with the same Broker in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyers or create a conflict of interest.

**18.86.060. Dual Agent - Duties.**

1. Notwithstanding any other provisions of this chapter, a licensee may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW 18.86.030 (1) (f), which consent must include a statement of the terms of compensation.
2. Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:
  - a. To take no action that is adverse or detrimental to either party's interest in a transaction;
  - b. To timely disclose to both parties any conflicts of interest;
  - c. To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;
  - d. Not to disclose any confidential information from or about either party, except

- under subpoena or court order, even after termination of the agency relationship;
- e. Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030 (1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and
  - f. Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030 (1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.
3.
    - a. The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.
    - b. The representation of more than one seller by different licensees affiliated with the same Broker in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.
  4.
    - a. The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.
    - b. The representation of more than one buyer by different licensees affiliated with the same Broker in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

## **XX. Disclosure Requirements**

The Agency Disclosure Law applies to sales, exchanges and leases for more than one year, involving real property improved with one-to-four dwelling units, stock cooperatives, and mobile homes. The law applies regardless as to whether or not the property is owner-occupied. You must provide the buyer and the seller with a statutory disclosure form entitled “Disclosure Regarding Real Estate Agency Relationships” (California Association of Realtors® form AD-11 or similar form), Information about Brokerage Services in Texas, and in EVERY applicable transaction. In Texas it is called the “Information about Brokerage services” form OP-K. In Colorado the form is called “Definition of Working Relationships”, in Nevada it is called Duties

Owed by a Nevada Real Estate Licensee.

**A. Seller Representation**

If we represent the seller, you must provide the disclosure form to the seller BEFORE entering into the listing agreement. Inform the seller of our policy regarding agency as set forth above. Get a signed "Acknowledgement of Receipt."

**B. Buyer Representation**

If we represent the buyer, the law requires that you must provide the buyer with a disclosure as soon as practicable BEFORE executing a Purchase Agreement.

*NOTE: You are actually required to provide the disclosure form to the buyer as soon as that buyer seeks your services in more than a "casual transitory or preliminary matter," with the object of entering into a real property transaction. As a general rule, never show a property without providing a disclosure. Don't forget to obtain a signed Acknowledgement of Receipt. When you present an offer and this office is not the listing agent, you must also provide a disclosure to the seller as soon as practicable BEFORE presenting an offer. Delivery of the disclosure to the listing agent is generally sufficient.*

**XXI. Sharing Information**

It is this Corporation's policy to make a full, open and sincere effort to cooperate with other licensees including sharing information, unless the principal has given instructions to the contrary. This does not mean, however, that you should disclose confidential information about your client or the Corporation.

**A. Property Disclosure Requirements**

One of the most common areas of dispute relates to the seller's and agent's alleged nondisclosure of a material fact about the property. Your and the seller's disclosure requirements have continued to increase over the years often leading to confusion and frustration on the part of real estate licensees. This Company takes seriously the disclosure requirements expected of the licensee. Any attempt to conceal a matter of fact, or mislead a party in any way will result in your immediate termination from this office. You are expected to be familiar with requirements and comply with them at all times.

*NOTE: As comprehensive as the printed materials are, they cannot possibly address every situation which may arise. Nothing can replace your good judgment and careful attention to detail. Remember when in doubt, disclose it in writing. NEVER fill out or sign a disclosure form for your client!*

## **XXII. Trust Fund Handling**

As a regular part of the real estate business, you will receive funds on behalf and for the benefit of others- "trust funds." The Trust Funds are defined as a "money or other things of value that are received by a Broker or salesperson on behalf of a principal or any other person, and which are held for benefit of others in the performance of any acts for which a real estate license is required." The most common types of funds are "earnest money deposits," option payments, rental security deposits and rental income owed to a property owner. Improper trust fund handling may lead to civil, criminal and real estate agency action against you and the Broker. Remember, you are handling someone else's money. The Broker is generally required to deposit trust fund money not later than the next business day after receipt. The Broker is deemed to have received those funds when you receive them. Therefore, in order to ensure that the funds are properly handled, you must deliver any funds received on behalf of another party by no later than 10:00 a.m. of the next business day after which you receive those funds. Once the Broker receives those funds, he/she will deposit them into the appropriate trust account or escrow account.

***NOTE: If the funds are to be held uncashed, you must also obtain the parties written authorization to that effect. Nevertheless, you must still deliver those funds to the Broker as required above.***

If the trust funds will be something other than money (cash, personal check, cashier's check, or money order) you must obtain the Brokers preapproval before taking possession of the trust item. If you receive cash, always verify the amount you are receiving; Count it in the presence of the party and always give the party a receipt immediately upon receiving the trust item.

No funds will be disbursed until the funds have cleared the appropriate financial institution nor without the written authorization of the principal and prior approval of the Broker. For more information, see also your local board, State Association of Realtors, or State licensing agency to refer to specific laws associated to Trust Fund Handling. The Agent Command Center provides a form that all agents must complete in their real estate transactions. The form can be found under **Online TC** and the form is called Trust Fund Account. Trust Funds will not be handled by the Corporate Broker in any State and all funds will be accounted for in the Corporate Pass through Trust Log.

## **XXIII. Property Management**

As a courtesy to our clients, the Broker provides property management services [if applicable] through the office's property management division. We will provide property management services to our clients on a case by case basis. All arrangements to manage a client's property must be preapproved by the Broker. Any property management contract must be supervised by the corporation with no exceptions. Any violation of this rule will result in severe disciplinary action against you and your license.

## **XXIV. Grounds for Termination**

As stated above, your association with the Broker can be terminated, with or without cause, at any time. Additionally, any violation of these policies, of the Realtor® Code of Ethics, any conviction of any illegal act, or any violation of the Real Estate License Law in the States we do business, or have transactions being conducted in, or any dishonest or unethical act will be cause for immediate termination of your association, and the corporation will pursue all available methods to resolve the issues, both criminally and civilly.

*Termination of Contract: On termination of a salesperson's Contract, the Corporate Broker must return the salesperson's license certificate to the salesperson within three days of termination and notify the Department within 10 days of the termination. When the salesperson changes companies, the former Broker must immediately notify the Commissioner in writing, and return the salesperson's license certificate to the salesperson.*

## **XXV. Associate's Inventory**

Within 24 hours after notice of termination by either party, you must provide the Corporate Broker with a list of all of active listings taken by you and all pending transaction in which, if completed you will be entitled to compensation from the Broker in accordance with the terms of your Broker-Associate License, or other written agreement. All of the Corporate Brokers corporate property must be returned within 24 hours. If the Broker Does not receive it corporate property back to the designated State office legal action will be taken by the Company against the agent for the return of its corporate property and any damages, fees, or costs.

## **XXVI. Corporate & Client Confidentiality**

You agree that you will not furnish to any person, business, real estate Brokerage or any other entity presently existing or to be formed in the future, and information regarding the Broker's clients, customers, properties, prices, or terms of negotiations including the Brokers policies and relationships with clients, customers or other business relations and/or the Broker's business. You agree not to remove from the Agent Command Center any files, maps, books, publications, records, prospect or client lists, sales plans, programs, materials, manuals, forms, brochures, training material, listing and sales materials provided by the Broker or any other material, files, records or data. Any such items in your possession will be returned to the Corporate Broker within 24 hours after your termination, or your transfer to another Broker. You expressly agree that all such items are the property of the Broker and you will not use these materials in connection with any real estate business carried on by you, either alone or with other individuals or entities. The Broker agrees that you are entitled, at your own expense, to photocopies of any records and files in which you have a bona fide personal, legal, or economic interest; and you may access such files only for such purposes upon reasonable notice in writing to the Corporation. You agree not

to sell, market to or otherwise solicit, or encourage and clients of the Broker, particularly sellers with whom the Broker presently holds listing agreements, to terminate their relations or contracts with the Broker.

## **XXVII. Sexual Harassment Information & Policy**

Any violation by the independent contractor/ Agent in writing, verbally, or otherwise will automatically place the violating party on probation for a period of 3 years, and all necessary steps to correct the problem will be immediately instituted by management. Probation is defined in this manual.

### **A. Illegality and Definition**

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, age, of national origin and prohibits employment discrimination and harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status or sex. Sexual harassment is included among these prohibitions under both state and federal law. The Corporate Broker is committed to providing a work environment that is free from all forms of unlawful harassment and discrimination, including sexual harassment. Sexual harassment in the work environment will not be tolerated.

Sexual harassment is defined as unwanted sexual advances or the creation of a sexually hostile work environment. This definition includes many forms of offensive behaviors and includes gender-based harassment of a person of the same sex as the harasser. The following is a partial list of examples that may encompass harassment:

- Ø Unwanted sexual advances, verbal or physical, expressed or implied.
- Ø Offering employment benefits in exchange for sexual favors.
- Ø Conditioning a term of employment upon the submission to sexual advances, expressly or impliedly.
- Ø Making or threatening reprisals after a negative response to sexual advances.
- Ø Other verbal conduct, including, but not limited to, making or using derogatory comments, epithets, slurs or jokes based on the individual's sex, making commentaries about an individual's body or appearance, using sexually-degrading words to describe an individual, discussing or describing sexual experiences.
- Ø Other physical conduct, including but not limited to, contact with another person's body, such as back rubs, assault of another person's body, impeding or blocking movements toward another person.
- Ø Visual conduct, including but not limited to leering, making sexual gestures, or displaying or forwarding sexually-offensive or obscene objects, pictures, cartoons, posters, email, Internet websites, letters, notes, etc.
- Ø Unwelcome sexual advances, either verbal or physical, requests for sexual favors and

other verbal, visual or physical conduct of a sexual nature, constitute sexual harassment when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of employment.
2. Submission or rejection of the conduct is used as a basis for making employment decisions.
3. The conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile or offensive work environment.

B. Internal and Complaint Process

If you experience or witness sexual harassment in the work place, report it immediately to the office manager or corporate Broker. Your complaint or report of sexual harassment will be investigated, as required by law. When the investigation is completed, you will be informed of the outcome. Anyone found to be engaging in sexual harassment may be subject to disciplinary action, up to and including termination of Contract.

You can raise legitimate concerns and/or make reports about sexual harassment in the workplace without fear of reprisal or retaliation. The Firm will not tolerate retaliation against Contractors complaining of or reporting sexual harassment in the workplace. Anyone found to be retaliating against a Contractor complaining of or reporting sexual harassment in the workplace may be subject to disciplinary action, up to and including termination of employment. If you otherwise experience or witness harassment and/or discrimination in the workplace on the basis of race, color, sex, age, national origin, religious creed, ancestry, physical disability, mental disability, medical condition, marital status or any other legally protected class, you must likewise utilize the same Internal Complaint Process as specified by Broker for the reporting of sexual harassment.

C. Legal Remedies are provided for each specific State the Corporation operates in.

## **XXVIII. Broker Lead & REO Policy**

The Firm Provides leads to agents by availability only. The policy is the agent will follow the Brokers request to service the buyer or seller or the lead or transaction will be reassigned. The splits will vary based upon the lead but the initial split will be at least 50% to the Broker and 50% to the agent servicing the lead or transaction. The Client will remain the Brokers lead for 1 year from the time it has been assigned to the agent. This means if the client buys 1 or 5 houses in that year then the split remains for that period of 1 year. The agent will be expected to do open houses, BPO's and service the lead accordingly, or the lead will be reassigned. There are no exceptions with this policy and this policy will be strictly enforced.

All company referrals need to be sourced through The Corporate Broker's lead program first before an outside Broker is used.

## **XXIV. Agent Command Center**

The Agent Command Center (ACC) is the office for the corporation and will be treated with the proper respect that a normal brick and mortar office would expect. The ACC will be used as a library of information for the agent, the primary location to upload transaction documents for your file and the Corporate Broker, documents, logos, and other marketing materials for the Agents use while at our firm. If your transaction file is not uploaded into a file that you create, then payment of and funds such as commissions will not be paid until you follow instructions.

## **XXX. Corporate Recruiters**

The Corporate Broker works with independent recruiters and will be contracted to as vendors. The pay structure will be outlined and set forth in a separate contract called the Recruiters Joint Venture Agreement (RJVA). All recruiters are expected to abide by our corporate policies and procedures and follow all laws accordingly in the State or States that they recruit in. All daily activities, duties, procedures and responsibilities will be outlined in detail by the Director of Recruiting on the day of hire and given to the recruit at that time. All necessary tools, materials, trade secrets, email accounts and any other items needed to conduct business will also be given to the recruit on the day of hire. If there is an issue with a violation(s), the problem will be reviewed and the recruiter will either be given a written warning or our agreement will end at that time depending on the nature of the violation. If the recruiter is an agent, the agent must bring their license to our firm according to the state law in which they are conducting business in. Real Estate activities will be kept separate from any and all recruiting responsibilities and there will be no commingling of the two activities. As long as the recruiter has an agreement with our firm, the recruiter will be paid a percentage (%) from every transaction that the agent's close that the recruiter has hired in the database.

***NOTE: A recruiter has to upload any potential leads to the agent tracker. If an agent gets hired that isn't found on the tracker, then that recruiting agent doesn't get credit for this new agent. The first point of contact determines who gets credit for the agent. Voicemails, emails, texts do not count. It must be an actual phone conversation or a physical meeting that determines it, and the agent being hired by that person.***

Anyone receiving overrides must be using Brokerage services first to continue to receive company overrides. This includes but is not limited to State specific Brokerage Services as well as other services. Broker written approval is required to use non-company approved services.

## **XXXI. Non-Disclosure Agreement**

This is an Agreement between the agent signing this document and The Corporate Broker referred to as The Firm in which the agent or employee agrees not to disclose trade secrets belonging to The Firm. In consideration of being made privy to trade-secret information belonging



to The Firm, the agent hereby agrees not to disclose this information to third parties and to treat this information as a trade secret belonging to The Firm. The information to be treated as a trade secret is all confidential information relating to the entire website and Agent Command Center, and any file that the agent or employee worked on while under Contract with the Corporate Broker.

## **XXXII. Confidential Information Agreement**

In consideration of being contracted by The Corporate Broker the undersigned, the agent hereby agrees and acknowledges:

1. That during the course of my employment there may be disclosed to me certain trade secrets of The Corporate Broker; said trade secrets consisting of:

- a) Technical information: Methods, processes, formula, compositions, inventions, machines, computer programs and research projects .
- b) Business information: Customer lists; pricing data; sources of supply; and marketing, production, or merchandising systems or plans.

2. I shall not during, or at any time after the termination of my contract with The Corporate Broker use for others, or myself or disclose or divulge to others any trade secrets, confidential information, or any other data of The Corporate Broker in violation of this agreement.

3. That upon the termination of my contract with the Corporate Broker:

- a) I shall return to The Corporate Broker including but not necessarily limited too: drawings, blueprints, reports, manuals, correspondence, customer lists, computer programs, and all other materials and all copies thereof relating in any way to The Corporate Broker business, or in any way obtained by me during the course of my employment. I further agree that I shall not retain copies of the foregoing.
- b) This agreement shall be binding upon me and my personal representatives and successors in interest, and shall inure to the benefit of The Corporate Broker its successors and assigns.
- c) The unenforceability of any provision to this agreement shall not impair or affect any other provision.
- d) In the event of any breach of this agreement, The Corporate Broker shall have full rights to injunctive relief, in addition to any other existing rights, without requirement of posting bond.

## **XXXIII. Do Not Call Policy**

Our company policy has been and is to **not make any cold calls** until further notice. The **DO NOT CALL POLICY includes faxing and e-mails**. To determine whether it is a **cold or warm** call, see numbers 1 through 4 below. The Company will be obtaining the National Do-Not-Call List to better organize our Company specific Do-Not-Call List in the very near future.

**“If in doubt, Do Not Make the Call”**

**Procedure A:** To determine if you May call and to identify if this is a warm or cold call, you must follow numbers 1, 2 and 3 on every single call.

1. Do you have a signed, written agreement from the customer stating that you may contact them to make a warm call at this specific number?  
YES: **You may call** (unless customer has requested relationship to be terminated)  
NO: **You may not call**
2. Has the person you wish to call made a purchase or transaction from you *within the last 18 months*?  
YES: **You may call** (unless customer has requested relationship to be terminated)  
NO: **You may not call**
3. Has the person you wish to call contacted you about our services *within the last 3 months*?  
YES: **You may call** (unless customer has requested relationship to be terminated)  
NO: **You may not call**
4. In the event the customer has requested (at any time) that their relationship with you or the Company be terminated  
**You may NOT call**

NOTE: "An expired listing is not a previous business relationship such as in #2 above, unless you were the previous Listing Agent on that expired listing. Properties and owners referenced on the MLS do not mean that the entire membership of MLS agents had a prior business relationship with those owners. Also, with respect to a **FSBO**, they are not making an inquiry for a listing service. This is still a cold call unless you are merely making an appointment to present an actual offer only, not soliciting for a listing."

**Procedure B:** To determine whether to call a number that is not listed on either Federal do-not-call list of the company's own do-not-call list.

1. Do not call before 8 am or after 9 pm (at their local time zone).
2. Do not disconnect an unanswered call before at least 15 seconds or four rings.
3. When you call, you must give your name, your Company's name and your telephone number or address at which you may be contacted.

NOTE: Effective January 29, 2004, you may not block Caller ID and you must transmit your Company name and telephone number for people to use during regular business hours to make do-not-call requests.

**Procedure C:** How to handle a customer request that their number(s) be placed on our Company's do-not-call list.

1. Place that person's name and telephone number on the Company's list as soon as possible, but not to exceed five (5) days.

**Do Not Call Indemnity Agreement:**

AGENT has read and studied the Cold Calling Policy for corporate Broker; AGENT understands that there are numerous severe penalties for violations of the Do-Not-Call laws. For example, the

FCC may fine up to \$11,000 for each violation. In other words, each phone call to somebody on the Do-Not-Call list, unless exempt. In addition, consumers may pursue a monetary claim for \$500 per violation. AGENT promises to abide by all Do-Not-Call laws. Neither Corporate Broker, nor its E&O Policy will defend or indemnify any AGENT who is accused or has actually violated the Do-Not-Call laws. AGENT is solely responsible for any and all violations of the Do-Not-Call laws. AGENT hereby holds harmless and indemnifies corporate Broker, attorney's fees, costs, claims, fines and any and all adverse repercussions suffered by corporate Broker, as a result of any alleged or actual violation by AGENT of any of the Do-Not-Call laws, state and federal.

#### **XXXIV. Corporate Indemnification Agreement**

This AGREEMENT is made by and between herein called "Corporate BROKER," and the below signed new agent hereinafter called "AGENT." AGENT is licensed to perform services for which a real estate license is required. AGENT is presently licensed under The Corporate Broker, real estate Broker's license AGENT desires protection in the event of claims made against AGENT in the course of AGENT's performing these professional services. AGENT is an independent contractor to Corporate BROKER. Corporate BROKER agrees by this agreement to provide indemnification and defense as set forth below. Corporate BROKER agrees, at Agents deductible expense through Errors & Omissions', to defend AGENT and hold AGENT harmless from claims for "damages" made by third parties by reason of any act, error, omission, or personal injury arising out of AGENT's professional services as rendered, or that should have been rendered, and for which AGENT is legally responsible, provided that such act, error, omission, or injury occurs during the period when AGENT is licensed under Corporate BROKER's license and while this agreement is in force and regardless of when the claim is made.

"Damages" shall not include any fine, sanction, penalty, or exemplary damages or exclusions set forth below. If you are fired for cause, or have been found to have committed any of the following: Fraud, criminal conduct, dishonesty, misrepresentation, willful misconduct, Malicious Act, error or omission.

Each claim shall be subject to a deductible of \$2,500.00 and each AGENT shall be responsible for all claims expense and damages with respect to each claim made against such AGENT during any annual indemnity period. Further, Corporate BROKER shall not be responsible to pay more than \$1,000,000 in damages and claims expenses associated with the defense for all claims made against AGENT during any annual indemnity period as set forth below.

The AGENT shall not be indemnified or defended for the following claims excluded from this Agreement:

- a) Claims arising out of alleged criminal conduct by AGENT.
- b) Claims arising out of a dishonest, fraudulent, intentional misrepresentation, willful misconduct or malicious act, error or omission or personal injury committed by AGENT with malice.
- c) Claims made by the AGENT himself or persons who are related to AGENT by blood,

- marriage, partnership, or co-ownership.
- d) Claims for emotional distress, mental illness, humiliation, bodily injury, sickness, disease, or death of any person.
  - e) Claims regarding injury to, conversion of, destruction of, or loss of use of personal or real property.
  - f) Claims arising out of purchase or sales of any property by AGENT, spouse or relative for his/her own use. Or any property in which AGENT, spouse or relative has any equity interest, or any ownership.
  - g) Claims made by any business enterprise, social club, or organization of which AGENT is a member or has an interest therein.
  - h) Claims arising out of discrimination or harassment of any kind by AGENT.
  - i) Claims based on AGENT acting as a notary public.
  - j) Claims involving the division of commissions and/or fees between agents.
  - k) Claims brought by a governmental or quasi-governmental regulatory agency partially or wholly seeking to impose disciplinary action upon AGENT.
  - l) Claims arising from any property management activity.
  - m) Claims arising from mishandling of buyers deposit.

All claims must be reported promptly in writing to Corporate BROKER or managerial personnel. AGENT agrees to cooperate with Corporate BROKER, its management and attorneys, in defending any such claim, and to make AGENT available for that purpose. Corporate BROKER shall have the duty to defend all claims covered by this Agreement regardless of whether they are groundless, false, or fraudulent. Corporate BROKER shall have the right to settle or compromise any such claim at its sole discretion, and the AGENT will be responsible for all fees, costs, and legal costs associated to a claim, or a dispute, buy another party, or the AGENT.

This Agreement shall commence once you read and sign this document, and shall continue in force from year to year, provided AGENT pays the required amount set forth above and as long as AGENT is an independent contractor under Corporate BROKER's license. The amount paid by AGENT pursuant to this Agreement shall not be prorated in the event that AGENT terminates and AGENT shall not be entitled to a refund under any circumstance.

Should the AGENT wish to purchase error or omission insurance separate and apart from this Indemnity Agreement, it must be after receipt of written approval of said policy by Corporate BROKER and at the AGENT's sole expense, and a copy of this policy must be placed in the AGENTS personnel file.

The promises and duties of Corporate BROKER under this Agreement shall be considered as excess to any insurance coverage in force procured by AGENT at AGENT's sole expense. Should AGENT wish to retain legal counsel separate and apart from Corporate BROKER's attorneys, it must be after receipt of written approval of said counsel by Corporate BROKER and at AGENT's sole expense. This Agreement shall bind the heirs, executors, administrators, assigns, and successors in interest of the parties.

AGENT waives all rights to subrogation in favor of Corporate BROKER. AGENT assigns all rights to indemnify the Corporate BROKER.

Any and all dispute(s) between Corporate BROKER and AGENT shall after good faith efforts are made to resolve the dispute(s) amiably is unsuccessful, be submitted to non-binding mediation with Judicial Arbitration and Mediation Services ("JAMS") in Orange, California, Denver, Colorado, or Dallas Texas. The agent is responsible for all fees related to non-binding mediation. In the event the non-binding mediation is unsuccessful, the dispute shall be submitted to JAMS for final and binding arbitration. All contract disputes will be submitted to JAMS for mediation or arbitration.

## **XXXV. Privacy Policies**

The Corporate Broker has created this Privacy Policy to demonstrate our firm commitment to privacy and so that you, as a visitor to the Corporate ("Web site") and Agent Command Center, will be aware of the uses made of information that may be generated as a result of you using our Web site.

### *1. What information is generated when you visit our Website & Agent Command Center?*

Depending on how you use our Web site, certain types of personal and non-personal information may be generated and collected. For example, you may give us your name or e-mail address when you complete a registration screen, respond to a questionnaire or submit an e-mail to us. Any personal information that you provide to us will be used by us primarily to fulfill the stated objective for which the information was requested or collected (e.g. if information is provided as a result of you e-mailing us, we will use the information provided, such as e-mail address, to respond to you). Other types of information that may be generated and collected when you use our Web site is information that we consider non-personal in nature. For example, we may collect the name of the domain from which you access the Internet (for example, aol.com, if you are connecting from an America Online account); the date and time you access our site or and the Internet address of the Web site from which you linked directly to our site. We use this information to measure the number of visitors to the different sections of our Web site and to help us make our Web site more useful to visitors.

### *2. Use of Cookies*

What is a cookie? A cookie is a data file that is created and stored on your computer's hard drive when you visit a Web site. The typical purposes of a cookie are to make your use of the Web site easier and more convenient and to assist the Web site in tracking your use of the site. For example, a cookie may save the registration information, passwords, purchases or preferences that you create when using a Web site so you don't have to reenter this information. Cookies may also tell the Web site which areas of the site are popular and which aren't. Cookie technology is used by most major Web sites and is considered an industry standard for the Internet. Our Website uses cookie technology to verify user information. (Please see the section titled 'Advertisements' for more information concerning advertisers.). Also, most Internet browsers are initially set to accept cookies. If you prefer, you may set your browser so that it refuses cookies

or alerts you when cookies are being created on your hard drive. You should be aware though that by not accepting cookies, you may impair your ability to use certain shopping or password protected areas of web sites.

### 3. *"Contact Us" Feature*

Like most sites on the Internet, our Website contains a feature that allows you to contact us with your comments or questions. Not surprisingly, we call this feature "Contact Us." To use this feature, there is an icon at the top of each page on our Web site which you can click onto. When you do click this icon, a screen will prompt you to provide us with certain information, such as your first and last name, email address, phone and fax number and your address, including your city and state. The information collected through the "Contact Us" feature is used to investigate and respond to your inquiries. If you are a member, we may also use the information you provide to update our membership records.

### 4. *Links to Other Sites*

In many areas of our Web site, we have included links to other Internet sites which we feel add to or improve the quality of our Web site. While we hope you find these links helpful, we cannot assume responsibility for the privacy practices or the content of any linked site. Therefore, we encourage you to investigate and determine the privacy policy and practices of any linked site prior to providing information to the linked site.

### 5. *Advertisements*

Like many other sites on the Internet, we sell advertising space on our Web site to other companies. The advertising space we sell is usually in the form of an electronic "advertisement banner." An advertisement banner is essentially a graphic link to the actual Internet site of the advertiser. While we hope you find our advertiser's products helpful, we cannot assume any responsibility for the privacy practices of our advertisers. Therefore, like any other Internet site you may visit, we encourage you to become knowledgeable of the privacy policies and practices of our advertisers prior to providing information on their sites.

### 6. *Corporate Chat Rooms or Forums*

From time to time a discussion forum, bulletin board, blog, chat area, news group, community, or other feature designed so that Users may upload data and images or communicate with others ("Forum") may be made available to Users on this Site. The Firm, in its sole discretion, reserves the right to review, control or edit any text, data, images, files, or other materials that may be uploaded, posted or submitted in any Forum ("Submissions") as well as the right to refuse to post any such Submission. All Submissions are subject to the Terms of Use.

### 7. *Toolbar*

The Corporate Broker, will not collect any information from you that could identify you personally. The Corporate Toolbar will not track your searches or browsing habits, and it will not install any other software programs on your computer without your consent. We will not gather information from the Toolbar to send any marketing or promotional materials to you, or to communicate with

you by phone, fax or e-mail without your consent.

8. *Required by Law*

We may disclose information provided by you if we are legally required to do so, such as by court order or subpoena.

9. *Security*

We have adopted what we consider to be reasonable security measures to protect against the loss, theft, misuse and alteration of information collected through our Web site. However, if you are concerned about the security of the Internet or our Web site, we suggest that you not provide this information.

10. *Other Products and Services*

Although we generally collect and use information to fulfill the stated objective for which the information was requested or collected, we may also provide the information to our subsidiaries so that they may send you information regarding other products or services that may be valuable or interesting to you.

11. *Corrections/Updates*

If you are an employee or independent contractor and you have a suggestion please send your ideas to the ASK Marketing tab.

12. *Changes to Privacy Policy Statement*

With the ever-changing environment of the Internet and to maintain our ability to improve the quality and safety of our Web site, we reserve the right to change this Privacy Policy at any time. In the event we make any material changes to our Privacy Policy, we will notify you by updating the Policy's Effective Date and indicating the previous effective date. As you use our Web site, we encourage you to periodically check back with this Privacy Policy for changes that we may make. Your continued use of our Web site will constitute your agreement to any changes we make and if you do not agree with a change, please refrain from using our Web site.

## **XXXVI. Commissions Paid to a Salesperson's Corporation or Limited Liability Company**

Many of our Agents would like to receive their commission payable to their own Limited Liability Corporation, or Corporation. I have provided the correct State Licensing Agency and IRS legal method for being paid this way. The Agent's Corporation or Limited Liability Company cannot be involved in a real estate transaction. In a real estate transaction, the agent may act only as an individual person. This is because the Agent has a license affiliated with The Corporate Broker, and the agent is given express permission to represent a buyer or seller in a real estate transaction. The Corporate Broker will pay and Agent this way if they do the following and return letter and W-9:

- 1) The Corporation or Limited Liability Company must be solely owned by the Agent.
- 2) The Agent must provide the following to the Broker for the Agents file:
  - a) Corporation or Limited Liability Company W-9 Form.
  - b) A letter stating that the Corporation or Limited Liability Company is solely owned by the agent and that the agent is requesting the commission to be paid to the Agents Corporation or Limited Liability Company.

**Letter Example:**

To: SRG Corporate Broker

\_\_\_\_\_, being duly sworn, deposes and says:

1. I am a licensed salesperson affiliated with The Corporate Broker.
2. I have formed a Corporation or LLC called \_\_\_\_\_
3. \_\_\_\_\_ (Corp or LLC name) is not licensed as a real estate Brokerage, and is owned solely by myself.
4. I request that all future commissions be payable to me, earned in the capacity as a salesperson working for The Corporate Broker in the State you work in, be paid to (company name) \_\_\_\_\_
5. **Sign and Date the Letter**

**This must be returned to The Corporate Broker by email as soon as possible if you are to be paid in this manner.**

## **XXXVII. Violations & Probation**

When an agent violates any Corporate Policy & Procedures, State or Federal Laws and are not in compliance with child support payments and Federal and State Taxes, State or Federal Liens both civilly or Criminally (but not limited to these points) the company (The Corporate Broker) has the discretion to put the violating agent on probation for a period up to 3 years and withhold funds accordingly to all State & Federal Laws. Company has discretion to either shorten or terminate the period of probation if violating agent can fully meet their obligations and provide all necessary documentation. This goes into effect once a phone call or a written document is received by the Corporate Broker. The probationary agent automatically goes onto a 50/50 split. If the Contractor decides to work on repairing the Violations then a 50/50 split will remain on the Contractor for a period of up to 3 years. If the Contractor does not comply with the Corporate Brokers request and demands then the whole commission minus \$1.00 will apply plus all fees, expenses, and legal fees associated with the agent's issue.

## **XXXVIII. Office Fees**

If you have selected the Office Payment Programs these are considered to be office fees. You must make your payment on a timely basis or there will be a penalty assessed per our Policy & Procedures. Company expects to be paid on a timely basis as the agent does when they close a



file. For all Office programs Commission Programs it is a minimum one year commitment. If payment is not received by company for either one of these programs the agent is on, they will automatically drop back to our lowest Commission Program, the remainder of the unpaid year will be assessed along with a 50% fee to move back into either program that agent was on. All payments will be made current. If an agent leaves and hasn't fulfilled their 1 year obligation the company will turn balance owed to a collection company for lost payments. For our Diamond or Top Producer Commission Programs it is the agents' responsibility to make their Renewal Payment on the 1<sup>st</sup> day of the month their anniversary hire date or when they upgraded to this commission program, if not received agent automatically moves back to our lowest Commission Program. To move back to our Diamond or Top Producer Program a 50% late fee will be assessed and is the company's discretion to allow agent to re-qualify for the Diamond or Top Producer Program. If an agent leaves while still having active files the company takes over the file, the agent is no longer an agent of the company (as agent cannot represent or be paid by 2 Brokerages at one time) and the company will re-assign the file to another agent within company. The referral fee is now based on a 50/50 split along with a \$500 transaction management fee. When joining any of our office Program's services are required, services to include Title, Escrow, Mortgage, and other services to come as they are added. The commission structure will show a general breakdown in the commission addendum of the ICA. There is a 5% risk management fee for all commercial deals and applies to all 4 company commission programs. Additionally, any short-sale negotiation fees collected there is a standard 10% fee paid to the company as well as any other fee that is not a commission a standard 10% fee applies and is payable to the company. The agent is responsible for cancelling their PayPal account. Any unpaid office fee is deemed to be a breach of contract.

#### **XXXIV. Chargeback Policy**

There will be no refunds or return of funds.

#### **XXXV. Electronic Policy**

##### **Legal Information**

This Enrollment Agreement is governed by the laws of the State of \_\_\_\_\_.

- I agree to do business "Electronically" with Summit Realty Group.
- I do not agree to do business "Electronically" with Summit Realty Group.

**By signing below, you agree to this entire Enrollment Agreement. Your digital signature is equivalent to a handwritten signature as provided in The Federal E-Sign Act.**

\_\_\_\_\_  
Agent Signature

Date:\_\_\_\_\_

## **XXXVI. Cancellation Policy**

You, the agent, may cancel this agreement at any time prior to midnight of the third business day after the date you receive access to the online education, which excludes Sundays and holidays. To cancel this agreement, you must transmit a signed and dated notice of cancellation to SRG either via fax or in a written letter within that three-day period. The notice must state that you are canceling the agreement or contain words of similar effect. The notice must be sent to the following contact information:

**SRG**  
**11429 S. District Drive**  
**South Jordan, UT 84095**  
**Fax: (888-329-8369)**

## **XXXVII. Finality Policy**

We invest substantial amounts of unrecoverable time and funds in the research and development of our technologies, educational materials, and systems. **All agreements are final for this reason.**

By signing here, I agree to the term and conditions above: \_\_\_\_\_  
Agent Signature

## XXXIII. Agent's Copy

The agent, or Broker understands by signing this document that they understand the policy and procedures, Indemnification agreement, sexual harassment policy, do not call policy, Privacy Policy, Non – Disclosure Agreement and Confidential Information Agreement, and the agent realizes that this manual is incorporated into the Independent Contractor Agreement of The Corporate Broker. There are no exceptions and no special arrangements will be made for anyone associated with The Corporate Broker. If this is not adhered to then The Firm will pursue all civil and criminal avenues to resolve the issue. Any updates and/or changes to the manual and/ or the corporate policies & Procedures are agreed to even if this document changes after signing, as law and updates are made over time.

The undersigned has read and understands the policy manual for The Corporate Broker and all of its affiliates. This copy is for your records.

Sign Here: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name Here: \_\_\_\_\_

(Agent's Copy)

## XXXIX. SRG Copy

The agent, or Broker understands by signing this document that they understand the policy and procedures, Indemnification agreement, sexual harassment policy, do not call policy, Privacy Policy, Non – Disclosure Agreement and Confidential Information Agreement, and the agent realizes that this manual is incorporated into the Independent Contractor Agreement of The Corporate Broker. There are no exceptions and no special arrangements will be made for anyone associated with The Corporate Broker will pursue all civil and criminal avenues to resolve the issue. Any updates and/or changes to the manual and/ or the corporate policies & Procedures are agreed to even if this document changes after signing, as law and updates are made over time.

The undersigned has read and understands the policy manual for The Corporate Broker and all of its affiliates. This copy needs to be emailed back to the corporate email address at [hr@summitrealtygrp.com](mailto:hr@summitrealtygrp.com)

Sign Here: \_\_\_\_\_ Date: \_\_\_\_\_

Print name here: \_\_\_\_\_

(Broker's Copy)