

**OFFICE POLICY MANUAL
SUPPLEMENTS**

PART I – Agency

PART II – Fair Housing

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PART I

Agency

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OFFICE POLICY MANUALS

Colorado Real Estate Commission Rules E-29, E-30, E-31 and E-39 sets out an employing broker's supervisory responsibilities, (these rules can be found in the Colorado Real Estate Commission Manual – Chapter 2) and requires all employing brokers to maintain a written office policy describing the duties and responsibilities in real estate transactions of all licensees employed by the broker. In order to help employing brokers comply with the rules it is suggested that a policy manual contain procedures for at least the following:

- 1) typical real estate transactions
 - a) review of contracts
 - b) handling of earnest money deposits, including the release thereof
 - c) back-up contracts
 - d) closings
- 2) non-qualifying assumptions and owner financing
- 3) guaranteed buyouts
- 4) investor purchases
- 5) office policy on brokerages relationships
- 6) licensee's purchase and sale of property
- 7) monitoring of license renewals and transfers
- 8) delegation of authority
- 9) property management
- 10) property listing procedures, including release of listings
- 11) training
 - a) dissemination of information
 - b) staff meetings
- 12) use of personal assistants
- 13) fair housing/affirmative action marketing

Brokers are encouraged to add other policies as appropriate to their practice.

In the event that one or several of these suggested topics (e.g.. guaranteed buyouts) are not applicable in a particular office, they should be addressed by stating that the office does not participate in that activity. The information contained in this publication is intended to assist Colorado Real Estate Employing Brokers in area (5) office agency policy and area (13) fair housing/affirmative action marketing when establishing their office policy manual in accordance with Commission rules.

The rules set by the Colorado Real Estate Commission regarding an employing broker's supervisory responsibilities, are as follows:

E-29. The terms "employment", in the employ of "employed", "employing", "placed under contract", or "engaged", as used in the licensing statutes (12-61-101 C.R.S. et seq.) and Commission Rules, shall refer to any contractual relationship by or between a real estate broker and another licensee, which may be with or without limitation as to the time, place, or manner of performance of the licensee's activities, but which shall not relieve the real estate broker from the statutory requirement that the real estate broker shall exercise authority, direction and control over licensee's conformance to the licensing statutes and Commission Rules in the performance of such licensee's activities pursuant to 12-61-103 (6)(c)(I) C.R.S., 12-61-113 (1) (o) C.R.S., 12-61-118 C.R.S., and Commission Rules. Whenever a complaint is filed with the Real Estate Commission against an employed licensee, the Commission shall cause an investigation to be made to ascertain whether there may have been a violation of 12-61-113(1)(o) C.R.S. by the employing real estate broker in failing to exercise a reasonable or high level of supervision over such licensee's activities with reference to the licensing statutes and Commission Rules. Such supervision, pursuant to 12-61-118 C.R.S. shall include all broker employees, including but not limited to secretaries, bookkeepers and personal assistants of licensed employees.

E-30. To ensure compliance with Commission statutes and rules regarding supervision, employing brokers shall have the following responsibilities:

- (a) Maintain all trust accounts and trust account records;
- (b) Maintain all transaction records;
- (c) Develop an office policy manual and periodically review office policies with all employees;
- (d) Provide for a high level of supervision of newly licensed persons pursuant to Rule E-32;
- (e) Provide for a reasonable level of supervision for experienced licensees pursuant to Rule e-31;
- (f) Take reasonable steps to ensure that violations of statutes, rules and office policies do not occur or reoccur;
- (g) Provide for adequate supervision of all offices operated by the broker, whether managed by licensed or unlicensed persons.

E-31. Pursuant to section 12-61-113(1)(o), c.r.s., "reasonable supervision" of experienced licensees shall include, but not be limited to, compliance with the following:

- (a) Maintaining a written office policy describing the duties and responsibilities of licensees employed by the broker. A copy of the written policy shall:
 - (1) be given to, read and signed by each licensee;
 - (2) be available for inspection, upon request, by any authorized representative of the Commission.
- (b) Reviewing all contracts to ensure competent preparation.
- (c) Reviewing transaction files to ensure that required documents exist.
- (d) Nothing in this rule shall prohibit an employing broker from delegating supervisory authority to other experienced licensees.

(1) Employed licensees who accept supervisory authority from an employing broker shall bear responsibility with the employing broker for ensuring compliance with the Commission statutes and rules by all supervised licensees.

(2) Any such delegation of authority shall be in writing and signed by the employed licensee to whom such authority is delegated. A copy of such delegation shall be maintained by the employing broker for inspection, upon request, by any authorized Commission representative.

(3) An employing broker shall not contract with any employed licensee so as to circumvent the requirement that the broker supervise employed licensees.

E-39. Pursuant to 12-61-808 C.R.S., a broker shall adopt a written office policy which identifies and describes the relationships in which such broker and any employed licensee may engage with any seller, landlord, buyer or tenant as part of any real estate brokerage activities. A broker may adopt any policy suitable to the broker's business, subject to the following:

- a.** An office policy shall apply to all licensees in the office;
- b.** An office policy shall be explained and agreed to by all licensees in the office;
- c.** With respect to "in-company transactions" in which an agency listing is used and the broker also uses either a dual agency addendum or transaction-broker addendum, the appropriate addendum shall be discussed and entered into with the seller, landlord, buyer or tenant at the time the listing is taken; and,
- d.** With respect to an "in-company transaction", no office policy shall permit an agency agreement with one party and a transaction-broker relationship with another party unless the principal to the agency agreement has entered into a transaction-broker addendum.

INTRODUCTION TO COLORADO'S BROKERAGE RELATIONSHIPS LAW

Under the National Association of REALTORS[®] (NAR) long standing rules of the multiple listing service (MLS), a broker made a blanket offer of sub-agency simply by placing listed properties in the service. On July 1, 1993, NAR modified the MLS rules, and now, the offer of sub-agency is an option of the seller and listing broker.

Also, a legal presumption has existed in Colorado, that absent a written agreement to the contrary, a broker working with a buyer was a sub-agent of the seller/listing broker.

The Colorado Real Estate Brokerage Relationships Act, effective January 1, 1994, creates a new statutory presumption, that all brokers are transaction-brokers unless a written agency agreement is executed with a buyer or seller. The new law, which is found in 12-61-801 of the Colorado Revised Statutes, applies to all activities for which a real estate license is required in Colorado and governs the relationships between real estate brokers and sellers, landlords, buyers, and tenants. Multiple listing services have also been modified, to allow a "yes" or "no" offer of cooperation and/or compensation to a sub-agent, and an offer of cooperation and/or compensation to a buyer's agent and/or to a transaction-broker.

In any real estate transaction, a broker may act as a single agent (seller's agent or buyer's agent) sub-agent, dual agent or transaction-broker. A single agent represents either a buyer or seller exclusively. A sub-agent represents the seller and owes them the same obligations and responsibilities as does a single agent broker. A dual agent represents both a buyer and a seller in the same transaction. A transaction broker assists one or more parties in a transaction, with contract terms, negotiations, advisement and communication, but does not represent the seller nor the buyer as an agent.

WRITTEN OFFICE POLICY

All employing brokers must adopt a written office agency that identifies which relationship(s) will be offered by the company. Companies are not required to offer any one or all of the available relationships. All agency disclosures to the public must contain a statement that "different brokerage relationships are available which include buyer agency, seller agency, sub-agency or transaction-broker. Should the customer inquire about a relationship not available in that office, the broker must provide the customer with a written definition of that relationship which has been prepared by the Colorado Real Estate Commission.

The sample office policies contained in this supplement represent the most common and practical approaches. They do not represent every possible office policy.

IMPORTANT: Review the various relationships and following sample policies. Establish an office/agency policy and adhere to it. Many agency questions that arise within the company can be addressed by referring to the office policy.

SAMPLE "A"
EXCLUSIVE SELLER AGENCY/TRANSACTION-BROKER

Listing Policy

1. (Company Name) and its broker associates represent the seller exclusively when we are the listing agent.
2. (Company Name) will cooperate with and offer compensation to selling companies who wish to assist a buyer as a transaction-broker, and represent neither a buyer nor our seller.
3. (Company Name) will not offer nor will we accept sub-agency.

Implementation:

- A. Review in its entirety the Exclusive Right To Sell Listing Contract (Seller Agency) with the seller, in particular:
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available

Duties:

(Company Name) owes the following duties to the seller:

- A. To perform the terms of the written agreement made with the seller.
- B. To exercise reasonable skill and care for the seller.
- C. To promote the interests of the seller with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - seeking a price and terms which are acceptable to the seller; except that we are not obligated to seek additional offers to purchase the property while the property is subject to a contract;
 - presenting all offers to and from the seller in a timely manner, regardless of whether the property is subject to a contract;
 - disclosing to the seller adverse material facts actually know by our company;
 - advising the seller to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the seller that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.
- D. (Company Name) may not disclose the following information without the consent of the seller:
 - that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for selling the property;
 - that the seller will agree to financing terms other than those offered;

- any material information about the seller unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing; or
- any facts or suspensions which may psychologically impact or stigmatize a property.

Selling Policy

1. On properties listed with our company, (Company Name) and its broker associates represent the seller exclusively.

Implementation

- A. Using approved language, disclose in writing to the buyer that (Company Name) and its broker associates:
 - are an agent for the seller;
 - that the buyer is not liable for our acts;
 - although we are not the buyer’s agent, we must disclose any adverse material facts about the property which we actually know; and
 - list any other tasks (Company Name) intends to perform for the buyer.

2. On properties not listed with our company, (Company Name) and its broker associates will assist a buyer as a transaction-broker.

Implementation:

- A. Using approved language, disclose in writing to the buyer that (Company Name) and its broker associates are not an agent for the buyer and are working as a transaction-broker.

Duties:

As a transaction-broker, (Company Name) has the following obligations and responsibilities:

- A. To perform the terms of any written or oral agreement made with any party to the transaction;
- B. To exercise reasonable skill and care, including, but not limited to:
 - presenting all offers in a timely manner, regardless of whether a property is subject to a contract;
 - advising the parties regarding the transaction, and suggesting that the parties obtain expert advice about material matters which we know but the specifics of which are beyond the expertise of our company;
 - accounting in a timely manner for all money an property received;
 - keeping the parties fully informed regarding the transaction;
 - assisting the parties in complying with the terms and conditions of any contract
 - disclosing all adverse material facts actually known by or company;
 - informing the buyer that they are not vicariously liable for the acts of our company.

C. (Company Name) may not disclose the following information without informed consent:

- that the buyer is willing to pay more than the purchase price for the property;
- that the seller is willing to accept less than the asking price for the property;
- what the motivating factors are for the buyer or the seller;
- that the seller or buyer will agree to financing terms other than those offered;
- any facts or suspicions which may psychologically impact or stigmatize a property.

SAMPLE "B"
EXCLUSIVE SELLER AGENCY/SUB-AGENCY

Listing Policy

1. (Company Name) and its broker associates represent the seller exclusively when we are the listing agent.
2. (Company Name) will cooperate with and offer compensation to selling companies who wish to accept sub-agency and represent our seller.

Implementation:

- A. Review in its entirety the Exclusive Right To Sell Listing Contract (Seller Agency) with the seller, in particular:
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- B. Advise the seller of our policy to extend an offer of sub-agency to other companies. Explain that any sub-agent who accepts the offer of sub-agency legally represents the seller, as do all of the (Company Name) broker associates, and that the seller may be liable for the actions of such sub-agents. Obtain the seller's acknowledgment and consent in writing to offer sub-agency to other selling companies.

Duties:

(Company Name) owes the following duties to the seller:

- A. To perform the terms of the written agreement made with the seller.
- B. To exercise reasonable skill and care for the seller.
- C. To promote the interests of the seller with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - seeking a price and terms which are acceptable to the seller; except that we are not obligated to seek additional offers to purchase the property while the property is subject to a contract;
 - presenting all offers to and from the seller in a timely manner, regardless of whether the property is subject to a contract;
 - disclosing to the seller adverse material facts actually known by our company;
 - advising the seller to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the seller that they may be vicariously liable of the acts of our company when we are acting within the scope of the agency relationship.

- D. (Company Name) may not disclose the following information without the consent of the seller:
- that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for selling the property;
 - that the seller will agree to financing terms other than those offered;
 - any material information about the seller unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
 - or
 - any facts or suspicions which may psychologically impact or stigmatize a property.

Selling Policy

1. On properties listed with our company, (Company Name) and its broker associates represent the seller exclusively.
2. On properties not listed with our company, where sub-agency is offered by the seller and listing broker (Company Name) and its broker associates represent the seller as a sub-agent.

Implementation:

- A. Using approved language, disclosure to the buyer in writing that (Company Name) and its broker associates:
- are an agent/sub-agent for the seller;
 - that the buyer is not liable for our acts;
 - although we are not the buyer's agent, we must disclose any adverse material facts about the property which we actually know; and
 - list any other tasks (Company Name) intends to perform for the buyer.
- B. Inform the buyer of (Company Name)'s policy to represent sellers exclusively, either on our listing or through the offer of sub-agency made in the MLS. Therefore, (Company Name) will only show them properties listed with our company, or properties where the seller and listing agent offer sub-agency.

SAMPLE "C"
EXCLUSIVE BUYER AGENCY

Selling Policy

1. (Company Name) and its broker associates represent the buyer exclusively and do not enter into listing agreements with sellers.

Implementation:

- A. Review in its entirety the Exclusive Right To Buy Listing Contract (Buyer Agency) with the buyer, in particular:
- the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available

Duties:

(Company Name) owes the following duties to the buyer:

- A. To perform the terms of the written agreement made with the buyer.
- B. To exercise reasonable skill and care for the buyer.
- C. To promote the interests of the buyer with the utmost good faith, loyalty, and fidelity, including, but not limited to:
- seeking a price and terms which are acceptable to the buyer; except that we are not obligated to seek other properties while the buyer is a party to a contract to purchase a property;
 - presenting all offers to and from the buyer in a timely manner, regardless of whether the buyer is already a party to a contract to purchase property;
 - disclosing to the buyer adverse material facts actually known by our company;
 - advising the buyer to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the buyer that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.
- D. (Company name) may not disclose the following information without the consent of the buyer:
- that the buyer is willing to pay more than the purchase price for the property;
 - what the motivating factors are for buying the property;
 - that the buyer will agree to financing terms other than those offered;
 - any material information about the buyer unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
 - or
 - any facts or suspicions which may psychologically impact or stigmatize a property.

SAMPLE “D”
SELLER AGENCY/BUYER AGENCY
TRANSACTION-BROKER FOR IN COMPANY TRANSACTIONS

Listing Policy

1. (Company Name) and its broker associates represent the seller exclusively when we are the listing agent.
2. (Company Name) will cooperate with and offer compensation to selling companies who wish to work with buyer’s agent and represent the buyer exclusively.
3. (Company Name) will cooperate with and offer compensation to selling companies who wish to assist buyer as a transaction-broker, and represent neither a buyer nor our seller.
4. (Company Name) will not offer nor will we accept sub-agency.
5. (Company Name) will act as a transaction-broker on in company transactions.

Implementation:

- A. Review in its entirety the Exclusive Right To Sell Listing Contract (Seller Agency) with the seller in particular.
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- B. With the execution of the listing contract, fully explain and have the seller sign the Transaction-Broker Addendum (for In-Company Transactions.) Execution of this Addendum allows (Company Name) to show the seller’s property to a potential buyer with whom (Company Name) has executed an Exclusive Right To Buy Listing Contract (Buyer Agency) and a Transaction-Broker Addendum (for In-Company Transactions.) In these instances, (Company Name) will not act as an agent for the seller nor an agent for the buyer, and will assist the parties as a transaction-broker.

Duties:

(Company Name) owes the following duties to the seller:

- A. To perform the terms of the written agreement made with the seller.
- B. To exercise reasonable skill and care for the seller.
- C. To promote the interests of the seller with the utmost good faith, loyalty, and fidelity, including but not limited to:
 - seeking a price and terms which are acceptable to the seller; except that we are not obligated to seek additional offers to purchase the property while the property is subject to a contract;
 - presenting all offers to and from the seller in a timely manner, regardless of whether property is subject to a contract;

- disclosing to the seller adverse material facts actually known by our company;
 - advising the seller to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the seller that they may vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.
- D. (Company Name) may not disclose the following information without the consent of the seller;
- that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for selling the property;
 - that the seller will agree to financing terms other than those offered;
 - any material information about the seller unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
 - or
 - any facts or suspicions which may psychologically impact or stigmatize a property.

Selling Policy

1. On properties listed with our company, (Company Name) and its broker associates assist the seller and buyer as a transaction-broker.
2. On properties not listed with our company, (Company Name) and its broker associates may represent the buyer as a buyer's agent or may assist the buyer as a transaction-broker.

Implementation:

- A. Using approved language, disclose to the buyer that (Company Name) is acting as a transaction-broker and not acting as their agent, unless an Exclusive Right To Buy Listing Contract (Buyer Agency) is executed.
- B. Should the buyer wish to have agency representation, review in its entirety the Exclusive Right To Buy Listing Contract (Buyer Agency), in particular:
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- C. Advise the buyer that in order to look at properties listed with our company, a Transaction-Broker Addendum (for In-Company Transactions) must be executed with the Exclusive Right to Buy Listing Contract (Buyer Agency.) Review the Addendum with the buyer and obtain the buyer's signature on such Addendum.

Duties:

When acting as a transaction-broker, either on properties listed with our company or on properties listed with other companies. (Company Name) has the following obligations and responsibilities:

- A. To perform the terms of any written or oral agreement made with any party to the transaction:

- B. To exercise reasonable skill and care, including, but not limited to:
- presenting all offers in a timely manner, regardless of whether a property is subject to a contract;
 - advising the parties regarding the transaction, and suggesting that the parties obtain expert advice about material matters which we know but the specifics of which are beyond the expertise of our company;
 - accounting in a timely manner for all money and property received;
 - keeping the parties fully informed regarding the transaction;
 - assisting the parties in complying with the terms and conditions of any contract
 - disclosing all adverse material facts actually known by our company;
 - informing the buyer that they are not vicariously liable for the acts of our company.
- C. (Company Name) may not disclose the following information without informed consent:
- that the buyer is willing to pay more than the purchase price for the property;
 - that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for the buyer or the seller;
 - that the seller or buyer will agree to financing terms other than those offered;
 - any facts or suspicions which may psychologically impact or stigmatize a property.

When acting as a buyer's agent on properties listed with other companies, (Company Name) owes the following duties to the buyer:

- A. To perform the terms of the written agreement made with the buyer.
- B. To exercise reasonable skill and care for the buyer.
- C. To promote the interests of the buyer with the utmost good faith, loyalty, and fidelity, including, but not limited to:
- seeking a price and terms which are acceptable to the buyer; except that we are not obligated to seek other properties while the buyer is a party to a contract to purchase a property;
 - presenting all offers to and from the buyer in a timely manner, regardless of whether the buyer is already a party to a contract to purchase property;
 - disclosing to the buyer adverse material facts actually known by our company;
 - advising the buyer to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the buyer that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.
- D. (Company Name) may not disclose the following information without the consent of the buyer:
- that the buyer is willing to pay more than the purchase price for the property;
 - what the motivating factors are for buying the property;
 - that the buyer will agree to financing terms other than those offered;

- any material information about the buyer unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
or
- any facts or suspicions which may psychologically impact or stigmatize a property.

SAMPLE "E"
SELLER AGENCY/BUYER AGENCY
DUAL AGENCY FOR IN COMPANY TRANSACTIONS

Listing Policy

1. (Company Name) and its broker associates represent the seller when we are the listing agent.
2. (Company Name) will cooperate with and offer compensation to companies who wish to represent a buyer as a buyer's agent.
3. (Company Name) will cooperate with and offer compensation to selling companies who wish to assist a buyer as a transaction-broker, and represent neither a buyer nor our seller.
4. (Company Name) will act as a dual agent on in company transactions.

Implementation:

- A. Review in its entirety the Exclusive Right to Sell Listing Contract (Seller Agency) with the seller, in particular:
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- B. With the execution of the listing contract, fully explain and have the seller sign the Dual Agency Addendum (for In-Company Transactions.) Execution of this Addendum allows (Company Name) to show the seller's property to a potential buyer with whom (Company Name) has executed an Exclusive Right To Buy Listing Contract (Buyer Agency) and a Dual Agency Addendum (for In-Company Transactions.) In these instances, (Company Name) will act as an agent for both the seller and the buyer.

Duties:

(Company Name) owes the following duties to the seller:

- A. To perform the terms of the written agreement made with the seller.
- B. To exercise reasonable skill and care for the seller.
- C. To promote the interests of the seller with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - seeking a price and terms which are acceptable to the seller; except that we are not obligated to seek additional offers to purchase the property while the property is subject to a contract;
 - presenting all offers to and from the seller in a timely manner, regardless of whether the property is subject to a contract;
 - disclosing to the seller adverse material facts actually known by our company;
 - advising the seller to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;

- informing the seller that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.
- D. (Company Name) may not disclose the following information without the consent of the seller:
- that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for selling the property;
 - that the seller will agree to financing terms other than those offered;
 - any material information about the seller unless disclosure is required by law or failure and disclose such information would constitute fraud or dishonest dealing;
 - or
 - any facts or suspicions which may psychologically impact or stigmatize a property.

Selling Property

1. On properties listed with our company, (Company name) and its broker associates represent the seller and the buyer as a dual agent.
2. On properties not listed with our company, (Company Name) and its broker associates represent the buyer as buyer's agent.

Implementation:

- A. Review in its entirety the Exclusive Right To Buy Listing Contract (Buyer Agency) with the buyers in particular:
- the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- B. Advise the buyer that in order to look at properties listed with our company, a Dual Agency Addendum (for In-Company Transactions) must be executed with the Exclusive Right to Buy Listing Contract (Buyer Agency.) Review the Addendum with the buyer and obtain the buyer's signature on such Addendum.

Duties:

When acting as a dual agent on properties listed with our company (Company Name) owes the following duties to the seller and to the buyer:

- A. To perform the terms of the written agreements made with the seller and with the buyer.
- B. To exercise reasonable skill and care for the seller and for the buyer.
- C. To promote the interest of the seller and of the buyer with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - seeking a price and terms which are acceptable to the seller and to the buyer; except that we are not obligated to seek additional offers to purchase the property

while the property is subject to a contract, and we are not obligated to seek other properties while the buyer is a party to a contract;

- presenting all offers to and from the seller and to and from the buyer in a timely manner, regardless of whether the property is subject to a contract;
- disclosing to the seller and to the buyer adverse material facts actually known by our company;
- advising the seller and the buyer to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
- accounting in a timely manner for all money and property received;
- informing the seller and the buyer that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.

D. (Company Name) may not disclose the following information without the consent of the seller or the buyer:

- that the seller is willing to accept less than the asking price for the property;
- that the buyer is willing to pay more than the purchase price for the property;
- what the motivating factors are for selling or for buying the property;
- that the seller or buyer will agree to financing terms other than those offered;
- any material information about the seller or about the buyer unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
- any facts or suspicions which may psychologically impact or stigmatize a property.

When acting as a buyer's agent on properties listed with other companies, (Company Name) owes the following duties to the buyer:

A. To perform the terms of the written agreement made with the buyer.

B. To exercise reasonable skill and care for the buyer.

C. To promote the interests of the buyer with the utmost good faith, loyalty, and fidelity, including, but not limited to:

- seeking a price and terms which are acceptable to the buyer; except that we are not obligated to seek other properties while the buyer is a party to a contract to purchase a property;
- presenting all offers to and from the buyer in a timely manner, regardless of whether the buyer is already a party to a contract to purchase property;
- disclosing to the buyer adverse material facts actually known by our company;
- advising the buyer to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
- accounting in a timely manner for all money and property received;
- informing the buyer that they may be vicariously liable for acts of our company when we are acting within the scope of the agency relationship.

D. (Company Name) may not disclose the following information without the consent of the buyer:

- that the buyer is willing to pay more than the purchase price for the property;

- what the motivating factors are for buying the property;
- that the buyer will agree to financing terms other than those offered;
- any material information about the buyer unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
- or
- any facts or suspicions which may psychologically impact or stigmatize a property.

SAMPLE "F"
SELLER AGENCY/TRANSACTION-BROKER WITH BUYER
TRANSACTION-BROKER FOR IN COMPANY TRANSACTIONS

Listing Policy

1. (Company Name) and its broker associates represent the seller when we are the listing agent.
2. (Company Name) will cooperate with and offer compensation to companies who wish to assist a buyer as a transaction-broker, and represent neither a buyer nor our seller.
3. (Company Name) will act as a transaction-broker on in company transactions.

Implementation:

- A. Review in its entirety the Exclusive Right To Sell Listing Contract (Seller Agency) with the seller, in particular.
 - the advantages of the agency relationship
 - the liabilities of the agency relationship
 - the agency disclosure statement that different relationships are available
- B. With the execution of the listing contract, fully explain and have the seller sign the Transaction-Broker Addendum (for In-Company Transactions.) Execution of this Addendum allows (Company Name) to show the seller's property to a potential buyer with whom (Company Name) is working as a transaction-broker. In these instances, (Company Name) will not act as an agent for the seller nor an agent for the buyer, and will assist the parties as a transaction-broker.

Duties:

(Company Name) owes the following duties to the seller:

- A. To perform the terms of the written agreement made with the seller.
- B. To exercise reasonable skill and care for the seller.
- C. To promote the interest of the seller with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - seeking a price and terms which are acceptable to the seller; except that we are not obligated to seek additional offers to purchase the property while the property is subject to a contract;
 - presenting all offers to and from the seller in a timely manner, regardless of whether the property is subject to a contract;
 - disclosing to the seller adverse material facts actually known by our company;
 - advising the seller to obtain expert advice as to material matters about which our company knows but the specifics of which are beyond our expertise;
 - accounting in a timely manner for all money and property received;
 - informing the seller that they may be vicariously liable for the acts of our company when we are acting within the scope of the agency relationship.

- D. (Company Name) may not disclose the following information without the consent of the seller:
- that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for selling the property;
 - that the seller will agree to financing terms other than those offered;
 - any material information about the seller unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing;
 - or
 - any facts or suspicions which may psychologically impact or stigmatize a property.

Selling Policy

1. On properties listed with our company and on properties listed with other companies. (Company Name) will act as a presumed transaction-broker.

Implementation:

- A. Using approved language, disclose to the buyer that (Company Name) is acting as a transaction-broker and not acting as their agent.

Duties:

As a transaction-broker, (Company Name) has the following obligations and responsibilities:

- A. To perform the terms of any written or oral agreement made with any party to the transaction:
- B. To exercise reasonable skill and care, including , but not limited to:
- presenting all offers in a timely manner, regardless of whether a property is subject to a contract;
 - advising the parties regarding the transaction, and suggesting that the parties obtain expert advice about material matters which we know but the specifics of which are beyond the expertise of our company;
 - accounting in a timely manner for all money and property received;
 - keeping the parties fully informed regarding the transaction;
 - assisting the parties in complying with the terms and conditions of any contract
 - disclosing all adverse material facts actually known by our company;
 - informing the buyer that they are not vicariously liable for the acts of our company.
- C. (Company Name) may not disclose the following information without informed consent:
- that the buyer is willing to pay more than the purchase price for the property;
 - that the seller is willing to accept less than the asking for the property;
 - what the motivating factors are for the buyer or the seller;
 - that the seller or buyer will agree to financing terms other than those offered;

- any facts or suspicions which may psychologically impact or stigmatize a property.

SAMPLE "G"
TRANSACTION-BROKER ONLY

Listing Policy

1. (Company Name) will work with sellers as a transaction-broker.
2. (Company Name) will cooperate with and offer compensation to selling companies who wish to assist a buyer as transaction-broker, and represent neither a buyer nor our seller.

Implementation:

- A. Review in its entirety the Exclusive Right To Sell Listing Contract (Transaction –Broker) with the seller.

Duties:

As a transaction-broker, (Company Name) has the following obligations and responsibilities:

- A. To perform the terms of any written or oral agreement made with any party to the transaction;
- B. To exercise reasonable skill and care, including, but not limited to:
 - presenting all offers in a timely manner, regardless of whether a property is subject to a contract;
 - advising the parties regarding the transaction, and suggesting that the parties obtain expert advice about materials matters which we know but the specifics of which are beyond the expertise of our company;
 - accounting in a timely manner for all money and property received;
 - keeping the parties fully informed regarding the transaction;
 - assisting the parties in complying with the terms and conditions of any contract
 - disclosing all adverse material facts actually known by our company;
 - informing the buyer that they are not vicariously liable for the acts of our company.
- C. (Company Name) may not disclose the following information without informed consent:
 - that the buyer is willing to pay more than the purchase price for the property;
 - that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for the buyer or the seller;
 - that the seller or buyer will agree to financing terms other than those offered;
 - any facts or suspicions which may psychologically impact or stigmatize a property.

Selling Policy

1. (Company Name) will act as a transaction-broker on properties listed with out company and on properties listed with other companies.

Implementation:

- A. Using approved language, disclose to the buyer that (Company Name) is not their agent and is a transaction-broker.

Duties:

As a transaction-broker, (Company Name) has the following obligations and responsibilities:

- A. To perform the terms of any written or oral agreement made with any party to the transaction:
- B. To exercise reasonable skill and care, including, but not limited to:
- presenting all offers in a timely manner, regardless of whether a property is subject to a contract;
 - advising the parties regarding the transaction, and suggesting that the parties obtain expert advice about material matters which we know but the specifics of which are beyond the expertise of our company;
 - accounting in a timely manner for all money and property received;
 - keeping the parties fully informed regarding the transaction;
 - assisting the parties in complying with the terms and conditions of any contract
 - disclosing all adverse material facts actually known by our company;
 - informing the buyer that they are not vicariously liable for the acts of our company.
- C. (Company Name) may not disclose the following information without informed consent:
- that the buyer is willing to pay more than the purchase price for the property;
 - that the seller is willing to accept less than the asking price for the property;
 - what the motivating factors are for the buyer or the seller;
 - that the seller or buyer will agree to financing terms other than those offered;
 - any facts or suspicions which may psychologically impact or stigmatize a property.

CHART OF OFFICE POLICIES

	POLICY A	POLICY B	POLICY C	POLICY D	POLICY E	POLICY F	POLICY G
Listing Company	Seller's agent	Seller's agent	N/A	Seller's agent	Seller's agent	Seller's agent	Assist seller as transaction-broker
Other companies' listings	Assist buyer as transaction-broker	Sub-agent	Buyer's agent	Buyer's agent or assist buyer as transaction-broker	Buyer's agent	Assist buyer as transaction-broker	Assist buyer as transaction-broker
In-company transactions	Seller's agent – buyer is a customer	Seller's agent – buyer is a customer	N/A	Assist buyer and seller as transaction-broker	Dual agent	Assist buyer and seller as transaction-broker	Assist buyer and seller as transaction-broker
Offer compensation to:	Buyer's agent or transaction-broker	Sub-agent	N/A	Buyer's agent or transaction-broker	Buyer's agent or transaction-broker	Transaction-broker	Transaction-broker

PART II

Fair Housing

(Revised 6/1998)

This manual was developed by the Colorado Association of REALTORS[®]’ Equal Opportunity/Legal Compliance Committee to assist in complying with the HUD/NAR Partnership Agreement. The contents of this guide have been reviewed by the Colorado Association of REALTORS[®]’ legal counsel to assure compliance with state law.

Definitions

SALESPERSON: Reference to “salesperson” throughout this document means broker associate or brokerage licensee.

SHALL: The word “shall” used in this document is synonymous with the words “mandatory” or “required.”

SHOULD The word “should” used in this document means that “it is recommended, not required.”

EQUAL OPPORTUNITY SLOGAN: The official Equal Opportunity slogan is: “Equal Housing Opportunity.”

EQUAL OPPORTUNITY LOGO:



BOARD: The use of the term “board” throughout this manual will denote boards/associations of REALTORS[®].

PARTNERSHIP/AGREEMENT: Refers to NAR/HUD agreement.

SIGNATORY: Means broker.

FEDERAL FAIR HOUSING LAW PROTECTED CLASSES:

Race, Color, Religion, Sex, National Origin, Handicap and Familial Status

ADDITIONAL PROTECTED CLASSES UNDER COLORADO LAW:

Ancestry, Creed, Marital Status

COMPANY FAIR HOUSING POLICY STATEMENT

THE COURTS HAVE RULED THAT REAL ESTATE COMPANIES ARE RESPONSIBLE FOR THE ACTS OF THEIR BROKER ASSOCIATES IN FAIR HOUSING MATTERS. THE COMPANY MAY NOT BE IN A POSITION TO DEFEND ITSELF SUCCESSFULLY IN A FAIR HOUSING MATTER IF THESE POLICIES AND PROCEDURES HAVE NOT BEEN FOLLOWED BY ITS BROKER ASSOCIATES. THEREFORE, THE COMPANY MUST INSIST THAT THESE POLICIES AND PROCEDURES BE FOLLOWED. ANY ACTS OF DISCRIMINATION WILL BE GROUNDS FOR TERMINATION OF EMPLOYMENT OR THE INDEPENDENT CONTRACTOR AGREEMENT.

The management of _____ has the legal, ethical and moral responsibility to endeavor to prevent any broker associates or employees from committing any act or making any statement, which could be perceived in any way as discriminatory in the area of fair housing.

Carrying out this important responsibility requires an active education program and a well-defined plan for monitoring everyday activities and correcting improper conduct when discovered.

The management of this company must make certain that all of its salespersons and employees know what company policy is regarding listing or leasing property, showing property, negotiating offers and serving the needs of buyers, sellers, property owners and prospective tenants without discriminatory intent or effect. The information contained in this manual sets forth these policies. These policies have been developed to ensure that the company and all its salespersons comply with both the letter and the spirit of the fair housing laws.

The management of this company must provide salespersons and employees with a set of procedures that can be used to ensure compliance with the partnership agreement since this company has signed that agreement. The information contained in this manual sets forth those procedures.

These policies and procedures must be followed by everyone associated with this company.

REALTOR[®] OFFICE POLICIES

1. During the conduct of business, no salesperson or employee should make any statement (either directly or otherwise) or perform any act which could have the effect of:
 - a) Implying that the presence or anticipated presence in a neighborhood of persons of any protected class will or may have results such as:
 - Lowering of property values
 - Changing the composition of the block or neighborhood
 - Making the area less safe
 - Contributing to a decline in the quality of the schools
 - b) Implying that persons of a protected class will be less able to obtain financing on a property.
 - c) Implying that we, as salespersons and employees, adhere to stereotypes that might result in different treatment in dealing with protected classes in the sale or purchase of property including:
 - Telling racial/ethnic jokes
 - Making derogatory remarks to anyone or about anyone
2. Fair housing laws should be discussed with a seller at the time listing. The seller's unequivocal commitment to abide by the law should be obtained.
3. Any seller who refuses to abide by the law and whose listing was therefore refused by the salesperson, or any seller who makes a home unavailable for showing to an individual of a protected class should be reported immediately to the principal broker or manager.
4. Discriminatory acts or statements on the part of the seller in rejecting or countering an offer should be reported immediately to the broker or manager. Proper guidance in what to relay back to the buyer should be obtained prior to delivery of the rejection or counter-offer by checking with your broker or manager.
5. CONSISTENT qualifying techniques should be used with all buyers and adequate records should be maintained by salespersons to demonstrate that all buyers are asked the same questions and given equal treatment.
6. No salesperson shall refuse to list or show a property in a given market area because of the presence/absence of a protected class.
7. All salespersons and employees shall provide equal service without regard to buyer's/seller's race, color, religion, sex, handicap, familial status, national origin, ancestry, creed or marital status.

Areas of service where the potential for inconsistent treatment exists includes (but are not limited to) the following:

- Greeting when entering or calling the office
 - Acts of courtesy and hospitality
 - Initial meeting to discuss needs
 - Qualifying and financing information asked and given
 - Personal information required
 - Availability and quality of properties shown
 - Follow-up procedures
 - Method of determining which properties to show
8. Salespersons and employees will be equally cooperative with all brokers and agents when setting up showings, making keys available, setting appointments to present offers, conducting negotiations, etc.
 9. Salespersons will offer to show all properties available in a market area within a buyer's price range and objective criteria without regard to individuals who may be in a protected class.
 10. Any harassment of salespersons, employees, buyers or sellers by anyone in carrying out obligations under the law should be reported immediately to the office manager/principal broker.

ACTS OF DISCRIMINATION WILL BE GROUNDS FOR TERMINATION OF EMPLOYMENT
OR THE INDEPENDENT CONTRACTOR AGREEMENT.

FAIR HOUSING OFFICER

The fair housing officer for the company is _____, who will be responsible for training and will deal with fair housing issues and concerns. Cooperation with the fair housing officer is required during investigations of alleged discrimination or in review of equal service records.

REALTOR'S OFFICE PROCEDURES

POSTER

The NAR/HUD developed fair housing poster, which includes the Code for Equal Opportunity in housing, will be displayed in a prominent place in each company office.

ADVERTISING:

Public Commitment to Fair Housing

1. Each signatory shall display, in a prominent place in the signatory's office, a fair housing poster as outlined in 24 CFR Part 110.
2. Each signatory shall use advertising policies for the sale or rental of housing that indicate to the general public that the advertised housing is open to all persons and is designed to attract buyers and renters without regard to race, color, religion, sex, familial status, handicap, or national origin.
3. Such advertising shall include an official Equal Housing Opportunity slogan or logotype as follows:
 - a. In all display advertising, the Equal Housing Opportunity logotype, when used shall be at least _" by _" in size.
 - b. In each "classified" advertisement of six (6) column inches or larger in size, except where the HUD "Publisher's Notice" appears on the lead page of the classified advertising section of the newspaper or magazine.
 - c. In a prominent place on all brochures, circulars, billboards, and direct mail advertising.
 - d. In a prominent place on signs and all other forms of advertising not specifically referred to in subparagraphs 3(a), (b) and (c) above, where its inclusion does not significantly increase the cost of advertising.
4. In order to promote awareness of the fair housing laws and the equal opportunity policy of the signatory, each signatory shall encourage all associates to distribute copies of the NAR flyer entitled "What Everyone Should Know About Equal Opportunity in Housing", or its equivalent, provided a copy of the equivalent flyer is attached to this plan or otherwise provided to HUD prior to its use.

Fair Housing Procedures and Advertising Policies

1. Each signatory shall adopt fair housing procedures, including procedures relating to office operations, and advertising policies to implement the goals and purposes of providing fair housing for all. The signatory either shall adopt the fair housing “best practices” recommended by NAR and HUD, or shall develop written fair housing procedures and advertising policies which, at a minimum, are consistent with the recommended “best practices.”
2. Each signatory shall require all associates to follow the procedures and policies adopted by the signatory’s firm.
3. The fair housing procedures, including those relating to office operations, shall address the provision of equal professional service without discrimination based on race, color, religion, sex, familial status, handicap, or national origin.
4. The advertising policies shall incorporate the provisions of paragraph II B of this plan.

ALL PRINTED MATERIALS

All brochures, cards, circulars, billboards, and direct-mail advertising shall include the official Equal Opportunity logo or slogan. All signs will contain an official Equal Opportunity logo or slogan. (Excluding those materials in inventory as of the date the firm adopted these procedures.)

TRAINING:

Fair Housing Education and Training

1. Each signatory shall explain and publicize the purposes and provisions of this agreement to all associates.
2. Each signatory shall provide, either directly or through Board or Association sponsored programs, ongoing training and education to inform all associates of their responsibilities under this Agreement and under the fair housing laws, and urge associates to attend and participate in Board or Association training programs.
3. Each signatory shall obtain and make available to all associates the NAR **Fair Housing Handbook**.

It is highly recommended that ALL associates attend training in fair housing law and obligations and the company’s fair housing procedures. Such training will be provided in-house or at the state or local association of REALTORS[®].

The company will make available ongoing training in fair housing law, obligations and the company’s fair housing procedures. Staff meetings will address fair housing issues on a regular basis. All salesperson are encouraged to raise fair housing concerns for discussion.

FAIR HOUSING RESPONSIBILITIES

Areas where CONSISTENT service will be provided include, but are not limited to, the following:

- Greeting when entering or calling the office
- Arranging appointments
- Acts of courtesy and hospitality
- Initial meeting to discuss needs
- Qualifying and financing information requested and given
- Personal information required
- Availability, location and quality of properties shown
- Keeping appointments
- Follow-up procedures
- Method of determining which properties to show

BROKER AND/OR FAIR HOUSING OFFICER RESPONSIBILITIES

- Be certain that all managers, salespersons and employees know the name and phone number of the person in the company responsible for implementing fair housing policies.
- Keep informed on current changes in the laws that affect company policy.
- Develop training programs for salespersons and employees on the subject of fair housing.
- Provide fair housing materials as needed.
- Investigate possible instances of discrimination.
- Review record-keeping/reporting throughout the company on a spot-check basis.
- Maintain written records on action taken to deal with questionable acts and/or statements.
- Provide means of eliciting opinions of protected class buyers, sellers and renters on way which services can be improved or changed to increase the company's responsiveness to their needs

LISTING PROCEDURES AND WORKING WITH SELLERS

While making any listing presentation or listing any property, the following procedures shall be followed:

1. Fair housing law must be discussed with a seller at the time of listing with unequivocal commitment to abide by the law, as follows:
 - Read the fair housing clause contained in the listing agreement.
 - Give an "Equal Opportunity in Housing" brochure to the sellers.
 - Review the contents of the brochure.
 - Refuse any listing where the sellers are not in agreement

2. Any seller who refuses to abide by the law and whose listing was therefore refused by the licensee must be reported immediately to the fair housing officer or broker.
3. Any seller who makes a home available for showing on account of any of the protected classes shall be reported to the fair housing officer or broker.
4. Any apparent or suspected discriminatory act or statement on the part of a seller in rejecting or countering an offer must be reported immediately. Proper guidance in what to relay back to the buyer must be obtained prior to delivery of the rejection or counteroffer by checking with the fair housing officer or broker.

WORKING WITH PROSPECTIVE BUYERS

Salespersons should qualify prospects in a uniform, CONSISTENT way, CONSISTENT interviewing and qualifying techniques must be used with all buyers and adequate records must be maintained by salespersons to demonstrate that all buyers are given equal treatment. Using CONSISTENT and systematic procedures, the salesperson will obtain objective information regarding the prospect's needs and wants. Let the customer set the limits and provide a variety of choices.

HIRING AND RECRUITMENT POLICIES

Equal Opportunity in the Real Estate Industry

1. Each signatory shall affirmatively recruit persons of all racial and ethnic groups, of both sexes, with and without disabilities, and individuals otherwise protected from discrimination by the Fair Housing Act, as salaried employees and independent contractors.

COMMUNITY PARTICIPATION

Association and Community Efforts

1. Each signatory shall encourage all associates to participate in community fair housing equal opportunity activities.
2. Each signatory shall endeavor to participate in Association Fair Housing Partnership activities designed to identify and remove barriers to equal opportunity in housing in the community.

Specific Project Considerations

1. Each signatory shall attach this Realtor[®] Model Plan to its Affirmative Fair Housing Marketing Plan Application form for each project subject to the Affirmative Fair Housing Marketing Plan regulations.

2. Each signatory shall consider, for each project submitted for HUD approval, the following:
 - a. the type of project
 - b. the area in which the project is to be located
 - c. the groups that are least likely to apply for or be aware of the project
 - d. the most effective methods to be used in marketing to group(s) that are least likely to apply for or be aware of housing in the project area and respective project. Groups are defined as white (non-hispanic), black (non-hispanic), Hispanic, American Indian or Alaskan Native, Asian or Pacific Islander.
3. Each applicant shall review its marketing efforts for each project to assess whether its marketing efforts have attracted a significant cross-selection of the eligible population, especially significant numbers from those eligible among those population groups least likely to apply for or be aware of housing in the project area and project.

RESPONSES TO POSSIBLE DISCRIMINATION OR HARASSMENT

Alleged acts of discrimination, whether by salespersons of this or another firm, or by members of the public, are to be immediately brought to the attention of the fair housing officer. It is the policy of this company to cooperate in the investigation for fair housing complaints, and, when appropriate, to file complaints on behalf of salespersons or employees of this firm.

When working with prospects or clients who may be victims of discrimination, the fair housing office will determine how best to assist them in protection of their fair housing rights.

Any incident of harassment of sellers, buyers, salespersons or employees in violation of fair housing laws will be promptly reported to the fair housing officer and appropriate authorities, which may include local or state police, local or state human rights agencies, the US Department of Justice, HUD or the FBI.

WHEN A CLIENT REFUSES TO COMPLY WITH FAIR HOUSING LAWS.
THE FIRM WILL DISASSOCIATE ITSELF FROM THAT PERSON

IN SUMMARY...THE PARTNERSHIP AGREEMENT

Management and salesperson shall comply with the provisions of the Partnership Agreement. As a signatory to this agreement, the company has made a commitment to affirmative marketing. Affirmative marketing means providing a housing choice free of practices and influences that would limit the freedom of that choice. Simply put, this means that individuals with similar financial resources and interests in the same market area must have a like range of property choices available to them regardless of their RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP (PHYSICAL AND MENTAL), FAMILIAL STATUS, CREED, ANCESTRY AND MARITAL STATUS.

