

## **MODEL OFFICE POLICY GUIDE**

This Model Office Policy Guide is provided free to member brokers as a service of the Oregon Association of REALTORS® . The Guide is designed to be used as a reference tool to assist Oregon brokers in drafting or revising their office policy manuals. It is assumed that all associates will have separate written independent contractor agreements with Broker. For Broker's convenience, a sample copy of an independent contractor agreement suitable for use with this Guide is included in Chapter X, Approved Forms, of this Guide. Also included are sample agreements for divided control and supervision of associates and for licensed personal assistants.

The Guide and sample agreements are not intended to substitute for Broker's own careful consideration and judgment regarding what written policies, procedures and agreements are in the best interests of the brokerage. Instead, the Guide and sample agreements are intended to aid brokers by suggesting areas typically covered by such agreements and office policy manuals. Similarly, the language used in the Guide and sample agreements is intended to suggest the kind of language that might be used in such documents. It is not necessary, or even desirable in all circumstances, to use the exact language found in the Guide and sample agreements in developing your own office policy and agreements.

A broker making use of this Model Office Policy Guide and sample agreements remains responsible for developing their office policies and establishing desired legal relationships with others. Brokers should seek the counsel of their own attorney in drafting agreements and office policy manuals and have the finished product reviewed by that attorney. The legal relationship between brokers can be affected in complex ways by the terms of any agreement between them, the nature and terms of any office policy and the manner in which they conduct themselves on a day-to-day basis. Brokers should discuss these matters with their attorney before implementing changes in agreements or office policies and procedures.

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## INTRODUCTION

This Office Policy Manual is the property of \_\_\_\_\_ (Company). It is provided for the mutual benefit of \_\_\_\_\_ (Broker) and the Independent Contractor Broker Associates (Associates) licensed or otherwise associated with Broker. Associates acknowledge their status as independent contractors and understand that the policies and procedures outlined in this Manual are provided as a guide to assist Associates in conducting their business affairs in cooperation with other Associates and in a manner consistent with Broker's duties under state law. Nothing in the Manual is intended to create an employment contract or in any way vary the terms of an Associate's separate Independent Contractor Agreement. Broker may amend or change these policies at any time. Should these policies be amended, Broker will notify Associates and make the changes available for Associates' inspection and use. It is the Associates' responsibility to keep apprised of current office policies.

## **CHAPTER I**

### **STATUS OF ASSOCIATES**

#### **Work For Mutual Benefit**

Associates have agreed to use their best efforts and work diligently to solicit customers, sell, exchange, lease or rent properties and promote the real estate transaction business for their own benefit, the benefit of fellow Associates and of Broker. Broker has agreed to provide Associates with current property listings and cooperate with Associates in obtaining a mutually advantageous business relationship. As Broker's agents pursuant to ORS 696.026, Associates agree to act at all times in the best interest of Broker.

The policies and procedures set forth in this Manual are intended to guide Associates as Broker's agents and enhance the best efforts and cooperation of Associates by establishing office procedures and policies that will assure the mutual benefit contemplated by Broker and Associates alike. As such, these policies and procedures are not to be construed as terms of a contractual agreement. The policies contained in the Manual do not create an employment contract.

#### **Control and Supervision of Broker Associates**

Associates acknowledge their status as independent contractors and understand that the policies and procedures outlined in this Manual are provided as a guide to assist Associates in conducting their business affairs in cooperation with other Associates and in a manner consistent with Broker's duties under state law. Real estate license law requires Broker to supervise and control the professional real estate activity of Associates. State license law allows Broker to divide control and supervision of Associates with other qualified principal brokers by written agreement.

Each Associate who has not entered into a written Control and Supervision Agreement (see Chapter X) with Broker shall be, for the purpose of real estate license law, associated with Broker or a principal broker who has by written agreement with Broker agreed to supervise and control the Associate's professional real estate activity. Associates shall be notified of the principal broker responsible for control and supervision of their professional real estate activity. Associates acknowledge that such control and supervision applies only to those activities real estate license law requires Broker to supervise and control. Associates understand they remain solely responsible for the conduct of their own business affairs.

Each Associate who has entered into a written Control and Supervision Agreement with Broker shall obtain a principal broker license if they will supervise and control the professional real estate activity of other Associates. Each Associate who has entered into a written Control and

Supervision Agreement with Broker shall be solely responsible for the supervision of their own real estate activity and of those Associates, if any, assigned to them. Associate supervision assignments may be by name, location or other identifying characteristic and shall be stated in Exhibit "A" of the Control and Supervision Agreement. Associate assignments may be changed only by written modification of the Control and Supervision Agreement. All affected Associates shall be promptly notified of assignment changes.

### **Independent Contractor Relationship**

These policies are intended to be a guide for individual business Associates working as professional real estate licensees under written independent contractor agreements. Nothing in these policies or procedures is intended to vary or conflict with any contractual agreement between Broker and Associate. As independent contractors, Associates are responsible for their own business activities and efforts. All Associates are independent, licensed real estate professionals operating as agents of Broker pursuant to ORS 696.026. Oregon real estate licensing laws (ORS 696.363) do not prevent the establishment of an independent contractor relationship between a real estate licensee and Broker nor require the establishment of an employer-employee relationship. Broker has established independent contractor relationships with all Associates. In the event there is any conflict between the terms of an Associate's independent contractor agreement and the policies and procedures set forth in this manual, the terms of the contract will be controlling unless doing so would result in a violation of law or regulation.

### **Termination of Independent Contractor Relationship**

The business relationship between Associates and Broker may be terminated only pursuant to the terms of the Associate's independent contractor agreement. Upon termination, the Associate shall immediately return all Company property in their possession, including, but not limited to, keys, policy manuals, educational materials, lock box keys, signs and supplies. All listings, referrals and prospects obtained while working under Broker's license are the property of Broker. Any compensation for efforts in procuring sales or listings prior to termination of the relationship will be in accord with the terms of the Associate's independent contractor agreement.

### **Authority of Associates**

Associates shall have no authority to bind or commit Broker to any contract, promise or course of action without the prior written authorization of Broker. Associates, acting as licensed agents performing professional real estate activity, are authorized to execute listing contracts and other approved documents on behalf of Broker. Associates acting in supervisory roles have the authority of other Associates plus those contained in the Control and Supervision Agreement

between Broker and the Associate. Associates shall have no authority to vary commission terms from those previously approved by Broker without first obtaining Broker's consent.

### **Relations with Other Associates**

Associates are expected to conduct themselves in a professional manner in their relations with other Associates. Each Associate working as an independent contractor has agreed to use his or her best efforts to promote their own and Broker's businesses. To that end, courtesy and cooperation among Associates is expected.

### **Personal Disagreements**

Personal disagreements not involving real estate transactions, office procedures or policies or real estate rules and laws should be resolved between Associates without the matter affecting other Associates or involving participation by Broker. Broker is, however, available to informally assist Associates in resolution of such disagreements. No Associate shall allow any personal dispute to disrupt the operation of the office or interfere in any way with the transaction of professional real estate activity.

### **Disagreements Concerning Policy or Procedures**

Any dispute among or between Associates with respect to the application of the policies and procedures contained in this Manual will be decided by Broker or Associate's principal broker. Decisions in such matters will be final, however, no decision regarding policies and procedures shall operate to, or be construed to, amend, alter or conflict with any Associate's rights or duties under their independent contractor agreement. Any dispute or disagreement concerning independent contractor agreements shall be resolved as provided in the independent contractor agreement itself.

### **Disagreements Concerning Real Estate Law, Rules or Transactions**

Any dispute among or between Associates involving any real estate transaction or application of real estate laws or rules shall be immediately brought to the attention of Broker or Associate's principal broker. Such disputes shall be resolved in accord with applicable real estate rules and law. Decisions in such matters shall be final. Decisions regarding real estate law, rules or transaction are made pursuant to the supervisory duties imposed on Broker and his authorized designees under real estate law and shall not be, or construed to be, the exercise of direction or control over Associates in the manner and means by which they conduct their business efforts under independent contractor agreements.

## **CHAPTER II**

### **GENERAL OFFICE POLICIES**

#### **Nondiscrimination**

It is the strict policy of Broker that all professional real estate services and activities conducted under Broker's, or his authorized designee's, supervision be provided equally and fairly to all members of the public without regard to sex, race, color, religion, disability, familial status, national origin, sexual orientation, marital status, sources of income, age or ancestry. As independent real estate professionals, all Associates are expected to know and abide by all state, federal and local laws and regulations prohibiting discrimination. No unlawful discrimination by Associates of any kind will be tolerated, nor shall any Associate be a party to any plan by others to unlawfully discriminate. To assist Associates in meeting their responsibility to avoid sexual discrimination in the work place, a copy of Broker's sexual harassment policy is attached to this Manual.

Broker will not discriminate against Associates, or other office personnel, in any manner inconsistent with state, federal or local law. Broker shall provide reasonable accommodation to disabled individuals otherwise qualified for employment or association with Broker unless such accommodation would impose an undue hardship. All Associates and office personnel shall report immediately to Broker, or Associate's principal broker, any violation of this nondiscrimination policy.

#### **Office Security**

Associates and office personnel issued office keys shall be responsible for the keys and making certain that the office is locked after regular business hours. The last person leaving the office shall insure that the doors and windows are locked, that lights and office equipment are turned off and the security system activated. Broker shall not be responsible for the loss or theft of personal property left at the office. Any lost or stolen office key must be reported to Broker, or Associate's principal broker, immediately.

#### **Office Conduct**

All Associates and staff are expected to dress and conduct themselves in a professional manner at all times. No drugs or alcohol are allowed in the office and their use will not be tolerated during working hours or in any circumstance where such use is illegal or could otherwise reflect negatively on Broker, the Company and other Associates. Associates shall be responsible for keeping neat and clean any office work area they use. Associates who use office facilities such as conference rooms or other meeting areas, are responsible for making sure the room is returned

to its pre-meeting condition and is ready for use by others. Eating or smoking is allowed only in areas, if any, designed for such use by Broker. Broker shall be responsible for the general cleaning and maintenance of the office.

### **Maintaining Contact with Office**

The conduct of professional real estate activity requires that Associates be available to Broker, and to clients and customers, to the greatest extent possible. Associates should, therefore, maintain contact with the office during business hours and let others know their location and how and when they can be reached. Broker will cooperate with Associates in establishing an office check-in procedure and the means for determining, by sign-in/sign-out board or otherwise, the location and time of return of all Associates.

### **Telephones, Computers and Other Telecommunication Equipment**

An office telephone system is provided by Broker for the conduct of real estate business. Associates may use the office telephone system for that purpose and should familiarize themselves with the system and its operation. It is important that lines remain open for incoming calls. Therefore, phone use should take no longer than necessary and be limited to business calls only. Long distance telephone calls for business purposes are allowed. Associates should keep a log of their long distance calls that shows the person contacted, the subject discussed and the property involved.

Associates may answer phone calls to the office and direct the caller appropriately, take a message or forward the call to the appropriate voice mail. Messages for Broker or other Associates should be taken carefully and in sufficient detail so that the message can be understood. All messages should include the date and time of the message, the caller's full name, the return phone number and the initials of the person taking the message. Any use of Company computers, email, web sites or other electronic media furnished by Broker shall conform to the Company Internet Use Policy (See Chapter III).

### **Office Records**

All records of professional real estate activity conducted by Associates are the property of Broker. All records shall be maintained in a manner consistent with Broker's Confidential Information Policies and Procedures (see Chapter IV). Records of professional real estate activity cannot be removed from the office without Broker's express permission. Associates are required to turn over to Broker all records of their professional real estate activity in a timely manner for filing in accord with Company records policy. All records and communications of any kind regarding Associates' professional real estate activity are to be considered confidential and treated accordingly. Associates may not use confidential information obtained during their

association with Broker to the detriment of Broker or any client or customer. Associates shall strictly obey policies intended to protect the confidential information of clients.

### **Advising Clients**

Associates may explain to clients and customers the preprinted provisions of the standard listing, sales and other approved forms the client or customer is asked to sign. Associates may also explain to customers or clients general legal matters involved in the purchase or sale of real property in Oregon. Associates shall not, however, give legal advice to clients or customers. Associates shall not advise clients or customers on whether a particular agreement or term is enforceable, whether they have the right to rescind an agreement or otherwise can take legal action against someone. Associates must not attempt to apply specific factual circumstances to legal principles in order to solve, or suggest a solution to, a legal problem or question. In such circumstances, the Associate should explain that they are not qualified to give legal advice and recommend the client or customer seek private legal counsel. The Associate shall report any request for such advice to Broker, or Associate's principal broker, immediately and document by letter to the client or customer that the client was advised to seek legal counsel. No Associate will advise any client or customer on tax laws or regulations or any tax liability or advantage resulting from the sale or purchase of real property.

### **Reporting Problems**

It is understood that Associates, though operating as independent contractors, act as agents of Broker and must, therefore, keep Broker informed of their activities. Associates shall immediately bring any of the following situations to Broker's attention:

- ▶ Any substantive complaint involving a real estate transaction.
- ▶ Any disclosure, or potential disclosure, of confidential client information.
- ▶ Any accident or injury that occurs while conducting professional real estate activity.
- ▶ Any criminal charge against an Associate other than a traffic infraction.
- ▶ Any civil suit, subpoena, or other legal document concerning real estate activity of the Associate.
- ▶ Any contact by or with any real estate licensing agency.
- ▶ Any threat of any legal action against the Associate or Broker on account of the Associate's professional real estate activity.
- ▶ Any act of discrimination.
- ▶ Any unresolved dispute with another real estate licensee, in-office or not.
- ▶ Any other situation involving professional real estate activity that could lead to liability on the part Broker or anyone associated with Broker.

**Broker's Availability**

Broker, or Associate's principal broker, shall be available to Associates for advice and consultation to the maximum extent possible during regular business hours. Broker, or Associate's principal broker, will be available for emergency situations at all times. A telephone number for emergency situations will be posted in the office at all times and Associates shall be responsible for staying apprised of the number. Associates should not act in situations where Broker's, or Associate's principal broker, advice or consent is necessary until that advice or consent has been obtained.

**Floor Time**

Providing effective professional real estate services to the public requires that Associates be available in the office to answer real estate inquiries. Such contact with the public is a valuable and necessary part of each Associate's real estate practice. Therefore, floor time will be scheduled on a voluntary basis with each Associate being allowed equal opportunity to take their turn handling public inquiries at the office. A monthly roster of volunteers and their assigned times will be kept. Volunteers must either take their turn as scheduled or provide a qualified replacement.

**Sales Meetings**

Sales meetings shall be held weekly for the purpose of providing Associates with information necessary to the conduct of their business activities. Changes in company policy, announcements, new listings, purchaser requests, market data, financing availability and other information regarding real estate sales will be discussed at sales meetings. In addition, real estate and licensing law topics may be scheduled for discussion at sales meetings. Associates are expected to take advantage of all sales meetings as part of their best business efforts. Associates are required to attend, unless excused by Broker, all sales meetings covering real estate or license law. Any meeting at which real estate or license law issues will be presented will be announced in advance.

**Tour of Homes**

Associates may schedule their new listings for the tour of homes to be conducted following sales meetings. Broker, or Associate's principal broker, shall be responsible for routing the tour. The route and schedule will be available the day prior to the tour. Tours shall be for the purpose of familiarizing Associates with new listings to aid them in fulfillment of their obligation to use best efforts to sell Broker's listings. While participation in the tours is not mandatory, it is expected that Associates not otherwise engaged in a specific business activity will take advantage of this business tool. Drivers for the tour will be scheduled in rotation by roster to

assure equal access. All Associates shall conduct themselves in a professional manner while on the tour or in clients homes.

### **Personal Safety**

Associates shall be responsible for their own safety while involved in providing professional real estate services to the public. The following suggestions are offered to assist Associates in meeting that responsibility:

- ▶ Keep the office informed of your location and schedule, particularly any property visits or showings.
- ▶ Notify the office of any customer with whom you feel uncomfortable and ask for someone to accompany you during any showing.
- ▶ Avoid being alone in a vacant building or house, especially at night.
- ▶ Have your customers, particularly for the first meeting, meet you at the office.
- ▶ Be aware of your surroundings and anticipate unsafe or compromising circumstances.

### **Absences**

As independent contractors, Associates are responsible for their own work schedules. Time-off is not controlled by Broker. Associates are expected to devote sufficient time and effort to their work to accomplish the results specified in their independent contractor agreement. Associates shall be available for any mandatory sales meetings and shall keep Broker informed generally of their schedule and availability. Associates shall make arrangements for other Associates to cover for them during any absences. Failure to make such arrangements may lead to Broker appointing another Associate to aid a client or customer and adjusting the absent Associates' commission split as appropriate under the Associate's independent contractor agreement.

### **Company Signs**

All signs used by Associates shall be provided by Broker. Associates may use uniform sign riders to display their name on property for sale signs. Sign riders shall be ordered by Broker at the Associate's expense. All sign riders shall be attached to the signs in a uniform manner using the fasteners provided with the sign. "Offer Pending" signs may be posted after acceptance of an offer. No "Sold" sign shall be posted until all contingencies of the sale have been waived or satisfied. No signs, including "Offer Pending" or "Sold" signs, shall be posted without the express permission of the owner. All signs, including direction signs, must be removed immediately upon expiration of the listing or completion of the transaction.

### **Office Hours**

Except for holidays, administrative personnel will be available and the office open to the public Monday through Friday from \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m.

Except for holidays, the office will be open to the public on Saturdays from \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m. and on Sundays from \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m.

The office will be closed for the following holidays:

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Use of the office by Associates during other than office hours is allowed provided Associates follow office security policy.

### **Legal Assistance**

Should a question requiring legal advice arise during a real estate transaction, the Associate shall inform Broker, or Associate's principal broker. Broker, or Associate's principal broker, at his or her sole discretion, shall determine whether to consult with an attorney regarding the matter. If the matter is referred to an attorney, Broker alone will be responsible for the legal fees. Broker shall not be responsible for any legal fee incurred by an Associate other than under this policy.

If a law suit or administrative action is filed or threatened against an Associate on account of the Associate's professional real estate activity, the Associate shall notify Broker, or Associate's principal broker, immediately. Broker shall report the matter to the Errors and Omissions carrier as required by the insurance policy. The cost of defending the suit, action or threat shall be apportioned as provided in the Associate's independent contractor agreement.

### **Associate Business Expenses**

Broker shall not be responsible for any expense incurred by Associates in the performance of their business duties unless approved by Broker in writing in advance. Any inspections, services or other inducements offered customers or clients by Associates must be approved in advance by Broker and shall be at the Associates' sole expense. Associates may not tie any inducement to their commission, nor otherwise in any way share their commission with an unlicensed client, customer or other person.

### **Review of Documents**

Broker, or Associate's principal broker, is required by Oregon law to review each document of agreement generated in any transaction subject to Broker's supervision. Therefore, if not

provided sooner, Associates who are not supervising their own real estate activity pursuant to a Control and Supervision Agreement must provide Broker, or Associate's principal broker, with all documents of agreement as soon after they are signed by the parties as practical. Under no circumstances shall documents of agreement be submitted later than 24 hours after signing. Associates understand that failure to timely provide documents for review may constitute a breach of the Associate's independent contractor agreement.

## **Office Records**

Broker is required by law to maintain records regarding all professional real estate activity conducted by anyone associated with the office. For that purpose, Broker, or Associate's principal broker, shall maintain files on all listings and prospective sales in accord with Broker's Confidential Information Policy and Procedures. Associates shall direct all written offers, listing agreements, earnest money documents, receipts, correspondence and other real estate transaction documents to the appropriate file. Associates are encouraged to keep a journal of their professional real estate activities and place copies of appropriate entries in the relevant file. Associates should keep a telephone log for each listing or prospective sale and file the logs in the appropriate file from time to time. Associates have an affirmative contractual obligation to cooperate and assist Broker in the maintenance of adequate records of professional real estate activity. To that end, all Associates shall be familiar with and act in strict accordance with policies and procedures established to ensure Associates will not have access to nor obtain confidential information concerning another client involved in the same transaction.

## **Personal Transactions**

Associates may engage in the purchase and sale of real estate only under Broker's supervision. Associates shall notify Broker, or Associate's principal broker, of their intent to purchase or sell real property for their own account prior to entering into any purchase agreement or offering property for sale. Any compensation to Broker, or the Associate, as a result of a personal transaction shall be in accord with the Associates' independent contractor agreement.

Oregon law requires full disclosure of both Associates' status as a real estate licensee and any information or advantage gained as a result of that status. To that end, Associates shall disclose that they are an Oregon real estate licensee at the first contract with any prospective seller or buyer, or the seller's or buyer's agent. Associates shall state clearly in any disclosure of agency that the Associate is representing only his or her own interests and is not acting as an agent for the other party nor for Broker in the personal transaction.

If the Associate is purchasing property listed with Broker, Associate shall disclose in full any involvement with the property prior to the offer to purchase and expressly disclose any information gained as a result of the involvement. If the Associate intends to purchase one of their own listings, they must give the owner a chance to withdraw his listing and seek other

representation prior to making any offer. If the seller wishes to continue to have Broker represent them in the purchase, Broker shall do so personally or appoint an Associate, other than the purchasing Associate, to represent the seller in the sale. Broker shall not represent the Associate, or both buyer and seller, in any personal real estate transaction.

### **Personal Assistants**

As independent real estate professionals, Associates are entitled to hire others to assist them in their business activities. Oregon law requires that all persons engaged in professional real estate activity be licensed in this state. State law also makes Broker, or Associate's principal broker, responsible for all licensed and unlicensed activity by persons associated with Broker. For these reasons, Associates shall not hire personal assistants without an express written agreement with Broker regarding assistant. A form for this purpose is provided in the "Approved Forms" chapter of this Manual.

### **Licensed Assistants**

Oregon real estate law requires that Associates who have licensed assistants be eligible for and obtain a principal broker's license. Qualified Associates may engage licensed assistants under a written Broker Associate/Licensed Personal Assistant Agreement. A sample of such an agreement is contained in Chapter X of this Manual. Licensed assistants shall be supervised by the engaging Associate acting as the principal broker for the assistant(s) under a Divided Control and Supervision Agreement with Broker. In addition to a Divided Control and Supervision Agreement with Broker, Associates who engage licensed assistant shall enter into a separate Broker/Broker Associate Licensed Personal Assistant Agreement with Broker. Such an agreement is contained in Chapter X of this Manual. An Associate who engages a licensed personal assistant may pay the assistant directly. However, any agreement regarding the sharing of commissions between an Associate and a licensed personal assistant must be consistent with the engaging Associate's Independent Contractor Agreement, office policy and state law. Associates shall be responsible for making certain any professional fees or necessary dues are paid. No licensed personal assistant may establish an agency relationship with a client that is different than the agency relationship between the hiring Associate and the client. Failure of the licensed assistant to maintain licensed or professional status is a violation of the agreement between Broker and Associate regarding assistants.

### **Associate Coordination Arrangements**

Arrangements by which one Associate, who is associated with Broker and supervised by a principal broker, coordinates activities with one or more other Associates who are supervised by

the same principal broker may be made with the principal broker's permission. Such arrangements shall not involve one Associate supervising or controlling another's professional real estate activity nor the direct compensation of one Associate by another. The principal broker shall supervise and control the professional activities of Associates who coordinate activities. Commissions or other compensation shared by Associates shall be through the principal broker according to a schedule mutually agreeable to the Associates and approved by the principal broker.

### **Unlicensed Assistants**

Associate may employ, or otherwise engage, such unlicensed personal assistants as they believe beneficial to Associate's business. Unlicensed personal assistants shall be the responsibility of the Associate alone. The hiring Associate shall supervise closely their unlicensed assistant's activities and be solely responsible in meeting any and all employer/employee duties and responsibilities resulting from the hiring of the personal assistant. No Associate may pay an unlicensed assistant, directly or indirectly, any portion of a real estate commission. Broker shall not be considered the assistant's employer for any purpose, but may supervise the unlicensed assistant's activities to the extent necessary to prevent the assistant from engaging in unlicensed professional real estate activity. Such activity by an unlicensed assistant, or the hiring Associate's failure to perform any of the duties or responsibilities of an employer, may be grounds under the Associate's Independent Contractor Agreement for termination of the Agreement.

## **CHAPTER III**

### **ADVERTISING**

#### **Broker Provided Advertising**

Oregon law requires that all advertising be in Broker's name and under Broker's supervision. Broker shall, therefore, have sole authority to advertise any property, complete control over the allocation of advertising to listings and the content of all advertising. Broker shall advertise all listings, at Broker's sole expense, according to Broker's advertising schedule.

Associates shall be responsible for writing ads for the properties they list. Such ads shall be submitted to Broker for approval not less than 24 hours prior to publication deadlines. All ads submitted for review shall be consistent with federal fair housing guidelines and shall not be false or misleading. Ads containing mortgage rates or terms must meet federal truth in lending disclosure requirements.

#### **Associate Advertising**

With the permission of Broker, Associates may, at their own expense, secure advertising beyond that provided by Broker. Any advertising by an Associate at their own expense must be submitted to Broker for approval prior to scheduled publication. All Associate advertising must be in Broker's name and make proper use of the Company logo and other authorized trademarks. All advertising must be consistent with applicable laws and regulations and not false or misleading.

#### **Internet Policy**

Broker recognizes that individual Associates may wish to establish and maintain a business presence on the Internet for the purpose of facilitating the sale of Broker's listings and establishing contact with potential purchasers. Any such Internet presence must be consistent with the advertising policies set out above and all applicable laws and regulations, including OAR 863-015-125. In addition, the following policies shall apply:

- ▶ Any use of on-line communications or other Internet services for the purpose of conducting professional real estate activity must be approved in advance by Broker and all professional real estate activity conducted in Broker's name. Associates shall be solely responsible for any service fees incurred as a result of their use of Internet services. Such services may be contracted for in the name of Associate, but any real property advertised for sale must be in Broker's name and properly identify the Company.

Associate must agree to indemnify, defend and hold harmless Broker for any claim or liability resulting from the Associate's Internet activities before permission will be granted.

- ▶ Associates shall identify themselves, Broker and the Company in all Internet communications. If the Associate maintains a Web Page for the purpose of advertising properties and inviting public contact, the page layout shall be consistent with Company advertising format and must be reviewed and approved by Broker prior to display to the public. Internet access providers, or web page designers, shall not be allowed to add to the Associate's page without review and approval of Broker. Associates shall make available to Broker the Internet address of the page and a complete copy of the source code. Associates shall be responsible for keeping current and accurate all information provided to the public through the Internet.
- ▶ Associates maintaining a professional real estate Web Page shall be responsible for assuring that the page is not used in violation of any state, local or federal law or regulation, including, but not limited to, fair housing regulations, truth in lending regulations, copyright law, discrimination laws and real estate licensing laws and regulations. Associates shall maintain the confidentiality of any client information gained as a result of any on-line communication. No Associate shall give the public the impression they are dealing with anyone other than Broker and Company in accessing the Associate's Web Page or communicating with the Associate by on-line communications.
- ▶ Associates shall not use their on-line business presence to seek or gain unauthorized access to another network, transmit or obtain any software or other data in violation of any patent or copyright, conduct or participate in any illegal activity, view or transmit sexually explicit material, transmit or forward to clients any unsolicited materials or advertisements, support or solicit on behalf of any group or organization, advocate or participate in any racial, ethnic, religious or gender-based slurs, jokes or communications, threaten or harass others or conduct or participate in any on-line activity or communication that might reflect negatively on the real estate profession, the Company or Broker.
- ▶ All E-Mail, or other electronic communications, with customers or clients shall be retained by the Associate and a hard copy placed in the appropriate transaction file. Such electronic communications shall be treated for all purposes as written correspondence with a client or customer.

## **Special Promotions**

Special sales materials, such as color brochures, may be used to promote certain exclusive listings if authorized and paid for by Broker. However, Associates shall not promise clients special promotional materials or efforts at Broker's expense without first obtaining authorization from Broker. Associates, at their own expense, may promise and develop special promotional materials for their own listings. Such Associate-paid promotional materials must be consistent with Company advertising policies and practices, and the material must be reviewed and approved by Broker, or Associate's principal broker, prior to distribution.

### **Open Houses**

Associates may hold open houses for each of their listings. However, Broker shall pay for not more than one Open House ad per week per listing. It shall be the responsibility of the Associate conducting the Open House to provide the text for the Open House ad in a timely manner. Additional Associate-paid Open House advertisements are allowed subject to review and approval by Broker, Associate's principal broker.

### **Virtual Tours**

Associates may use virtual tours, featuring the inside of listed homes, to advertise property only with the written permission of the owner. A form for obtaining such permission is included in the Approved Forms section. All virtual tours shall, to the extent possible, be designed to protect the client's privacy and prevent misuse of information by the public. Tours should not include images of security features, such as alarm systems, special locks or other security mechanisms. Art work, jewelry, expensive electronics or other items of value should not be included in tour images. The tours should not include images of family photos, professional certificates or other items that could be used to identify the owners. Digital enhancement of virtual tour images shall not be used to materially change the appearance of the property or delete significant features of the property. All use of virtual tours for advertising shall be consistent with Broker's Advertising Policies and OAR 863-015-0125.

## **CHAPTER IV**

### **CONFIDENTIAL INFORMATION POLICY AND PROCEDURES**

All active client and transaction files shall be maintained by principal brokers assigned control and supervision responsibilities. Active files maintained by one principal broker shall not be accessible to other principal brokers unless the other principal broker supervises and controls the same Associates as the principal broker maintaining the files. Principal brokers shall maintain the security of active files by limiting access to the records in a manner calculated to assure confidentiality. Unlicensed office personnel may access client and transaction files on behalf of a principal broker or Associate authorized to access the file, but shall not distribute or disclose the contents of any file to anyone other than the person on whose behalf they accessed the file unless authorized to do so by that person.

Active client files shall be kept separate from transaction files. All confidential client information shall be kept in client files. A client file shall be opened for each client as soon as an agency relationship is established. Information, including but not limited to information regarding price, terms, financial qualifications or motivation to buy or sell, communicated to the Associate by a residential buyer or seller is confidential client information unless the Associate has been instructed to disclose the information or the failure to disclose would constitute fraudulent representation.

Client files may be kept in a central location by an Associate's principal broker or, with the principal broker's permission, kept by the Associate who establishes the agency relationship with the client. Client files shall be marked "confidential." Each file shall be identified by the client's name and the name of the Associate, or Associates, with whom the client has established an agency relationship. Client files shall be contained and arranged in such a manner as to assure that an Associate accessing their own client files will not inadvertently access another client's file. Intentional unauthorized access of a client file is grounds for termination of an Associate's Independent Contractor Agreement under that Agreement. Inadvertent unauthorized access of a client file shall be reported to Associate's principal broker who shall immediately take the steps necessary to assure that the confidential information is not used to the detriment of the client.

If, with the permission of the principal broker, client files are kept by Associates, Associate's principal broker shall be notified in writing on an office form provided for that purpose of the opening of a client file. All client files shall be accessible to an Associate's principal broker at all times. Client files kept by an Associate shall be kept in a manner consistent with these Confidential Information Policy and Procedures. No Associate shall access a client file kept by another Associate without the permission of the other Associate and Associate's principal broker. Unauthorized access of a client file kept by another Associate is grounds for termination of an Associate's Independent Contractor Agreement under that Agreement. An Associate keeping client files shall report any inadvertent unauthorized access of a client file to Associate's principal broker who shall immediately take the steps necessary to assure that the information is not used to the detriment of the client.

Each principal broker shall maintain a consecutively numbered transaction file for each offer or transaction that involves the actual sale, purchase, lease option or exchange of property. Only those Associates who have established agency relationships with the parties to the transaction may access a transaction file. Intentional unauthorized access of a transaction file is grounds for termination of an Associate's Independent Contractor Agreement under that Agreement. Inadvertent unauthorized access of a transaction file shall be reported to Associate's principal broker who shall immediately take the steps necessary to assure that the information contained in the file is not used to the detriment of any client.

Transaction files shall not contain confidential client information. Information that has been provided the other party during a transaction is not confidential information with respect to that party and all such information shall be included in the transaction file. Associates in doubt as to whether specific information is confidential client information shall check with their principal broker prior to placing such information in a transaction file. Transaction files shall be associated by reference with the appropriate client files. Upon completion, or failure, of the transaction, the transaction file and the appropriate client files, if inactive, may be stored together, but the contents of the client and transaction files shall not be combined into a single file. Except as otherwise required by law, access to confidential information contained in inactive files shall be limited to those who have acted, or are acting, on behalf of a client authorized to access that file.

Associates shall not discuss confidential client information with anyone who does not have an agency relationship with the client. This includes other Associates within the Company, including those supervised by Associate's principal broker. "Cooler talk," and other informal exchanges of information within the office, shall not include confidential client information. Violation of this policy is grounds for termination of an Associate's Independent Contractor Agreement under that Agreement. Associates shall maintain the confidences of their clients at all times and Broker will not tolerate violation of this policy. Associates shall report any violation, by themselves or others, to their principal broker who shall immediately take the steps necessary to assure that the information is not used to the detriment of the client.

## **CHAPTER V**

### **LISTING POLICY**

#### **Listing Agreements**

Associates may take listings only in the name of Broker and on the approved Company form. Associates may not vary, or promise to vary, the terms of the Company form without prior approval of Broker or Broker's authorized designee. Associates shall make certain all owners, including spouses, sign the listing. The Associate should allow ample time for the owners to read and discuss privately the terms of the listing agreement. The Associate shall explain the terms of the listing agreement to the owners' satisfaction and leave a copy of the signed agreement with the owners. A personal listing follow-up letter in a form approved by Broker shall be mailed by the Associate to owner(s) within three days of obtaining a new listing.

#### **Agency Disclosure**

Oregon law requires real estate licensees to provide the seller with a copy of the statutory Oregon Real Estate Agency Disclosure Pamphlet upon first contact with the seller. All Associates shall provide to the seller a standard Oregon Real Estate Agency Disclosure Pamphlet provided by Broker. The Associate shall note by date the seller's receipt of the Pamphlet in the listing file. Associates shall fully explain the Pamphlet and the agency relationships involved prior to the seller(s) signing the listing agreement. A copy of the appropriate Oregon Real Estate Agency Disclosure Pamphlet is included in "Approved Forms," Chapter X.

#### **Disclosed Limited Agency**

Associates shall seek the seller's signature on a Disclosed Limited Agency Agreement for Sellers at the time of listing. Associates must fully explain disclosed limited agency relationships, including Associate's ability to represent both the seller and the buyer and the role of Associate's principal broker, prior to seeking such agreement. The signed Disclosed Limited Agency Agreement for Sellers shall be attached to the listing agreement as an addendum. A copy of a standard Disclosed Limited Agency Agreement for Sellers form is included in "Approved Forms," Chapter X of this Manual.

#### **Designated Agency**

In a transaction involving property listed by an Associate where the buyer is represented by another Associate who is supervised by the listing Associate's principal broker, the principal broker shall represent both the seller and the buyer, pursuant to a Disclosed Limited Agency Agreement. In such a situation, the listing Associate will continue to represent only the seller. Such representation must be agreed to by the seller in a Disclosed Limited Agency Agreement for Sellers and shall be consistent with the applicable duties and responsibilities set out in the Oregon Real Estate Agency Disclosure Pamphlet. All representation shall be consistent with Company policies and procedures established to ensure Associates will not have access to, and will not obtain, confidential information concerning another client involved in the same transaction. Failure to follow these policies and procedures is grounds for termination of the Associate's Independent Contractor Agreement under that Agreement.

### **Lead-Based Paint Disclosure**

Associates shall determine at the time of listing whether the property was constructed before 1978. If the property was constructed before 1978, and is being sold as a residence, the listing agent shall see to it the seller completes a Lead-Based Paint Disclosure Addendum. The Addendum shall be signed by the seller and provided to each buyer for their signature at the earliest possible time. The Addendum shall be made part of any sale agreement concerning the property.

### **Seller's Property Disclosure Statement**

Associates shall explain to sellers the sellers' duties with respect to property disclosure statements as set out in ORS 105.465 to 105.490. Unless excluded under ORS 105.470, each seller shall agree to deliver to each buyer who makes a written offer a seller's property disclosure statement in the statutory form. Associates shall not list non-excluded residential property without the seller's agreement to provide all buyers with the document. Associates shall obtain seller's acknowledgment that their duties under the property disclosure statute were explained and that they have agreed to provide buyer with either a disclosure statement. Associates shall not advise or assist the seller in filling out the disclosure form. The Associate, however, shall review the form and bring to the clients' attention any discrepancies reasonably apparent to the Associate after a non-invasive walk-through inspection of the property by the Associate.

### **Property Security**

The listing Associate shall use reasonable care to assure that listed properties are as secure as practical under the circumstances. During the listing period, Associates should check the property as required to insure the proper use of lock boxes and that all real estate agents accessing the property are duly authorized, conducting themselves in a professional manner and

are maintaining reasonable security. Associate shall discuss the advantages and disadvantages of lock box use with sellers and abide by the seller's decision regarding lockbox use.

### **Listing Processing Procedures**

Listing Associates shall be responsible for completing all appropriate support forms concerning a new listing. All MLS documents and profile sheets shall be submitted to Broker, or Associate's principal broker, for review prior to the submission deadline established by MLS rule. Should the seller refuse MLS submission, it shall be the listing Associate's responsibility to see that the seller's wishes are honored. Timely dissemination of listing information is the policy of Broker and in the best interest of the seller. All new listings shall be submitted to the MLS and made available to other Associates in a timely manner and in no circumstances later than required by MLS rule.

### **Cancellation of Listings**

All listings are in the name of Broker and cannot be canceled by the Associate. Should the listing Associate learn that the seller wishes to cancel the listing, the Associate shall not attempt to negotiate or otherwise compromise with the seller, but must report the matter to Broker, or Associate's principal broker, immediately. Broker, or Associate's principal broker, shall at his sole discretion determine how best to address a cancellation request or demand.

### **Cooperation with Other Companies**

It is Broker's policy to cooperate with other real estate professionals to the extent allowed by the seller. Unless otherwise instructed by the seller, all listings shall be made available to other brokers, including buyer brokers, on a cooperative basis. Broker shall have sole authority to establish the terms of any offer of cooperation consistent with the seller's instructions. Associates shall bring to Broker's, or their principal broker's, immediate attention any offer or request by another broker or agent to "co-list" a property. Associates shall not enter into, nor encourage, "co-listing" arrangements without the express authorization of Broker or their principal broker.

## **CHAPTER VI**

### **BUYER'S BROKER**

#### **Buyer Agency**

An Oregon real estate licensee may represent a buyer exclusively. An Oregon real estate licensee may also legally represent both the buyer and seller, or two buyers competing for the same property, under a disclosed limited agency agreement with full disclosure of the relationship under the agreement. Associates may represent buyers in any manner allowed under Oregon law. Such representation must be undertaken only after Associate has provided the buyer with a standard Oregon Real Estate Agency Disclosure Pamphlet. Associates shall fully explain the Pamphlet and the agency relationships involved. The Associate shall note by date the buyer's receipt of the Pamphlet in the client file. A copy of the appropriate Oregon Real Estate Agency Disclosure Pamphlet is included in "Approved Forms," Chapter X.

#### **Buyer's Broker**

Oregon law allows real estate licensees to represent buyers without benefit of a written representation agreement. Associates working with buyers on this basis should be certain the buyer has not executed an exclusive representation agreement with another licensee and that the buyer has received and fully understands the Oregon Real Estate Agency Disclosure Pamphlet.

If an Associate intends to act as the buyers agent exclusively, the Associate is encouraged to complete, and have the buyer sign, a standard Exclusive Buyers Service Agreement. Such agreements shall be in the name of Broker or the Company. A copy of the standard Exclusive Buyers Service Agreement form is included in "Approved Forms," Chapter X.

If Associate intends to act as a buyers agent on a non-exclusive basis, the Associate is encouraged to complete, and have the buyer sign, a standard Nonexclusive Buyers Service Agreement. Such agreements shall be in the name of Broker or the Company. A copy of the standard Nonexclusive Buyers Service Agreement form is included in Chapter X of this Manual.

#### **Disclosed Limited Agency**

An Associate who intends to act in a transaction as the agent of both the buyer and the seller, or two buyers competing for the same property, must obtain a Disclosed Limited Agency Agreement from both parties prior to undertaking such representation. Associates shall fully explain disclosed limited agency relationships, including the role of Associate's principal broker, prior to seeking such agreement. The signed Disclosed Limited Agency Agreement shall be attached as an addendum to any written agency agreement between the buyer and the Associate. The Associate shall carefully honor the duties imposed on disclosed limited agents. In particular,

Associates acting under any disclosed limited agency agreement shall preserve the lawful confidences of each party. A copy of the standard Disclosed Limited Agency Agreement For Buyers is provided in Chapter X, "Approved Forms."

### **Designated Agency**

In a transaction involving property listed by another Associate who is supervised by Associate's principal broker, the principal broker, pursuant to a Disclosed Limited Agency Agreement, shall represent both the seller and the buyer. In such a situation, the Associate will continue to represent only the buyer. Such representation must be agreed to by the buyer in a Disclosed Limited Agency Agreement for Buyers. All representation shall be consistent with Company policies and procedures established to ensure Associates will not have access to, and will not obtain, confidential information concerning another client involved in the same transaction. Failure to follow these policies and procedures is grounds for termination of the Associate's Independent Contractor Agreement under that Agreement.

### **Procedures When Representing Buyers**

Associates representing buyers must carefully distinguish between acting exclusively for the buyer, acting as a disclosed limited agent and acting as a designated agent. It is imperative that Associates use the proper forms, obtain the necessary agreements and conduct their activities in a manner appropriate to the agency relationship created. The Associate should anticipate potential conflicts resulting from representation of the buyer and bring any potential conflicts to the attention of Broker, or their principal broker, in a timely manner. Associates must strictly adhere to Company policies and procedures to assure that Associates who represent one client do not have access to, and will not obtain, confidential information concerning another client involved in the same transaction. When undertaking dual representation in a transaction, the Associate should routinely remind the parties of the dual nature of their representation and the limits that representation places on the Associate. Breach of such policies and procedures may be considered a material breach of the Associate's Independent Contractor Agreement.

Associates acting as a buyer's broker shall, as soon as practical, notify the listing agent that they are representing only the buyer. Associates should avoid showing property when the owner is present unless accompanied by the listing agent. All communication with a seller should be through the listing agent. If the owner has no agent, the Associate must provide the owner with an Oregon Real Estate Agency Disclosure Pamphlet before showing the property or engaging in any discussions or negotiations with the owner. If the Associate intends to seek a commission from the seller without undertaking a listing, or establishing an agency relationship with the seller, the Associate must seek Broker's, or Associate's principal broker's, approval. Associates may enter into fee agreements with unrepresented sellers only in the manner authorized by Broker or Associate's principal broker.

## **CHAPTER VII**

### **SELLING PROCEDURES**

#### **Handling Prospects**

##### **Providing Information**

Only licensed Associates may provide information, beyond that advertised to the public, on listings to prospective clients or customers. Associates with unlicensed personal assistants shall be responsible for seeing to it that their assistants do not engage in professional real estate activity by providing specific property information to prospective clients or customers. Potential customers or clients shall not be referred to Broker's unlicensed employees if they are seeking specific information on properties or wish to discuss specific real estate needs. All calls to the office shall be logged by the person taking the call.

##### **Screening**

Associates providing information to prospects should screen the caller to determine their needs, motive, possible down payment and ability to buy. Responses to screening questions shall be recorded on a Prospective Purchaser Work Sheet. The Associate is responsible at a minimum for recording the prospect's name, telephone number and the date of the call in order to give other Associates notice of the prospect and preserve the Associate's chance to work exclusively with that prospect in the future.

##### **Working With Prospects**

In order for an Associate to have the right to work exclusively with a prospect, it must appear that the Associate has established a relationship with the prospect and that the prospect desires an exclusive relationship. To avoid misunderstandings between Associates, and to make sure the needs of all clients and customers are promptly served, Associates should impress upon their prospects the importance of asking for the Associate by name. Although Associates shall respect each other's prospects, it is the individual Associate's responsibility to establish a strong relationship with the prospect. Under no circumstances shall a prospect's real estate needs be placed behind, or held hostage to, an Associate's claim to the prospect. Any dispute between Associates regarding working with prospects shall be brought to Broker's attention and resolved by Broker or Associate's principal broker. Under no circumstance may an Associate involve a client or customer in such a dispute.

#### **Offers**

## **Confidentiality**

Associates shall abide by Company policies and procedures established to ensure Associates will not have access to and will not obtain confidential information concerning another client involved in the same transaction. Associates should avoid discussing possible offers with other Associates. The details of an offer cannot be discussed with anyone other than the listing agent. Each buyer must be made aware that the terms and conditions of their offer will not be disclosed to other buyers represented by Broker, but the fact that an offer has been made may be disclosed by the seller's agent. Associates representing competing buyers shall not attempt to discover the terms or conditions of the other offer. No Associate shall represent more than one buyer at a time seeking a particular property without the express permission of Broker or Associate's principal broker and having a signed disclosed limited agency agreement with each buyer.

## **Standard Forms**

Associates shall use only those standard offer, counter offer, addendum and other transaction forms approved for use by Broker. Associates shall not themselves select any form for use, propose any contract language or advise clients on the legal effect of any particular clause or term. Associates shall not suggest, draft or select any title documents, draft or recommend language for any easement, profit or other ancillary agreement between the buyer and seller. No Associate shall draft or recommend language for any land sale contract, deed or trust, note, mortgage or other legal instrument. Associates may assist the buyer in filling out the standard promissory note form used for earnest money. Associates shall be familiar with and able to explain generally the terms of all forms in use by Broker. Any blanks to be filled in on standard forms must be done only at the direction of the client and in the manner dictated by the client.

## **Presentation of Offers**

All offers must be presented to the seller by the listing Associate in a timely manner. The Associate must record, for the transaction file, the time and date of presentation. Unless timely presentation would be unreasonably delayed, all offers should be presented to Broker for his review prior to presentation to the seller. The Associate presenting the offer must make a full, fair, complete and understandable explanation of the offer to the seller.

Associates shall not favor one offer over another or fail to present an offer or neglect to inform the seller of any potential offer known to the Associate. The selling agent may be present at the presentation if the agent makes such a request and the seller approves. No offer shall be presented without a final agency disclosure as required by Oregon law.

Associates shall endeavor to have the seller make a counter offer to, or reject in writing, any unacceptable offer. If the seller wishes to allow an offer to lapse by its own terms without making a written rejection or counter offer, the Associate shall document that occurrence in the transaction file. A copy of any rejected offer will be provided the buyer and the date and time it

is provided shall be recorded in the transaction file. If an offer lapses without written rejection, the listing Associate shall notify the buyer and make a record of the date and time of notification.

### **Counter Offers**

All counter offers shall be on the standard form provided by Broker for that purpose. Associates shall make a record of the date and time of the presentation of any counter offer. Associates shall encourage the buyer to make a counter offer to, or reject in writing, any unacceptable counter offer. If the buyer wishes to allow a counter offer to lapse by its own terms without making further counter offer, or written rejection, the Associate shall document that occurrence in the transaction file. A copy of any rejected counter offer will be provided the seller and the date and time it is provided recorded in the transaction file. If a counter offer lapses without written rejection, the listing Associate shall notify the seller and make a record of the date and time of notification. This procedure shall be repeated for each and every counter offer made and presented during the negotiation of a transaction.

### **Referral Fees**

All fees and commissions paid for professional real estate activity must approved by and in the name of Broker. Associates may not themselves pay or receive a referral fee directly. Any offer by an Associate to share a portion of the Associate's commission must be approved by Broker. Under no circumstances may an Associate agree to pay, directly or indirectly, any portion of a real estate commission to an unlicensed person.

## **CHAPTER VIII**

### **CLOSING EFFORTS**

#### **Listing Associate**

All real estate transactions conducted through Broker shall be closed in escrow unless the parties specifically agree otherwise in writing. It shall be the listing Associate's responsibility to assist the parties and the escrow company in successfully completing the closing. Upon acceptance of an offer to purchase, the listing Associate shall open escrow with the escrow company designated in the earnest money agreement by transmitting to the escrow company a copy of the fully executed sale agreement. The listing Associate shall thereafter assist the parties as required in fulfilling the escrow instructions. The listing Associate shall keep the seller fully informed as the escrow progresses and plan to attend the closing with the seller's approval.

#### **Selling Associate**

The selling Associate shall make certain that the listing agent opens escrow as provided in the sale agreement. The selling Associate shall be responsible for seeing that any earnest money held by Broker is properly transferred to the closing officer pursuant to the escrow instructions. The selling Associate shall maintain contact with the listing agent and keep the buyer informed as escrow progresses. The selling associate may attend the closing at the buyer's invitation.

#### **Failed Transactions**

Associates shall immediately notify Broker of any sale that does not close as provided in the sale agreement, or if it appears at any time during escrow that the sale may not close as provided in the sale agreement. If one or the other parties to an escrow refuses to proceed with a transaction for any reason after escrow is opened, Associates involved in the transaction shall report the matter to Broker or their principal broker immediately, along with any explanation of the cause. Associates shall not counsel parties on whether agreements are enforceable nor make any representation regarding distribution of earnest money without the express consent of Broker.

## **CHAPTER IX**

### **EDUCATION**

#### **State Mandated**

Oregon law mandates continuing education requirements for all real estate licensees. Associates have agreed in their individual independent contractor agreements to meet the minimum state requirements. Broker shall assist Associates to the degree practical in meeting their continuing education responsibility. Broker shall from time to time arrange for education opportunities at no cost to Associates. Associates shall, however, remain responsible for meeting all continuing education requirements. Associates shall report for Broker's verification, or Associate's principal broker's verification, and recording any education the Associate intends to count toward the state requirement.

#### **Professional Development**

Broker shall assist Associates in their professional development by maintaining a library of real estate educational materials. Associates are encouraged to pursue professional development in addition to meeting state mandated continuing education requirements. Broker shall cooperate with Associates to the extent practical in arranging for or accommodating advanced professional training. Associates are encouraged to attend trade association conventions and seminars and pursue advanced designations through REALTOR® education programs.

## **CHAPTER X**

### **APPROVED FORMS**

#### **SEXUAL HARASSMENT POLICY**

##### **Generally**

Broker has a strict policy prohibiting all forms of sexual harassment. The policy applies to all associates or employees when they are acting within the scope of their employment or pursuant to an Independent Contractor Agreement.

No employee or Associate shall engage in any conduct constituting sexual harassment. No employee or Associate against whom a charge of sexual harassment has been made shall in any manner seek reprisal against the person making the charge.

An employee or Associate who observes an act of sexual harassment shall report the act to Broker or a supervising principal broker.

##### **Definitions**

"Sexual Harassment" is defined for purposes of this policy as any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature or with sexual overtones. It includes, but is not limited to:

1. Offensive comments;
2. Jokes or suggestions about the gender or gender-related physical attributes of another;
3. Sexually suggestive jokes, profanity or euphemisms;
4. Obscene or lewd gestures;
5. Unwanted physical contact;
6. The display of sexually explicit or suggestive pictures, drawings or written materials; or
7. A social invitation accompanied by a discussion of performance reviews, evaluation or merit considerations.

##### **Enforcement**

All charges that an employee or Associate has sexually harassed another employee or Associate shall be referred to Broker, or a supervising principal broker, for investigation and appropriate action. Broker, or a supervising principal broker, shall promptly resolve the matter taking into account privacy and confidentiality concerns consistent with a full and fair investigation. Associates working as independent contractors understand that violation of Broker's sexual harassment policy is grounds for termination of the Associate's Independent Contractor Agreement under that Agreement. No employee shall, under any circumstance, be subjected to

retaliation of any kind on account of having complained of sexual harassment. Broker, or the supervising principal broker responsible, shall take all necessary steps to prevent any reoccurrence of the harassment and assure that the situation is promptly remedied.

**NOTE:** This Independent Contractor Agreement exemplar is intended for use as a working model only. This exemplar should not be used without consulting legal counsel. The laws and rules governing independent contractor status are subject to change and vary depending on the legal context within which the status is tested. In addition, the existence of a written independent contractor agreement may not be sufficient to establish the status of independent contractor if the actions of the parties are not consistent with independent contractor status. Significant tax penalties and other monetary consequences may result from failing to properly establish and maintain an independent contractor relationship. The Oregon Association of REALTORS® cannot and does not guarantee or imply that use of this exemplar will prevent an adverse finding or ruling with respect to the status of any party.

## **INDEPENDENT CONTRACTOR AGREEMENT**

THIS IS A LEGALLY BINDING CONTRACT - READ CAREFULLY BEFORE SIGNING

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
by and between \_\_\_\_\_ (“BROKER”)  
and \_\_\_\_\_ (“BROKER ASSOCIATE”)

### **RECITALS**

BROKER is licensed as a real estate broker by the State of Oregon and maintains an office for the purpose of conducting real estate activity properly furnished and equipped as necessary to that purpose and suitably staffed to serve the public as a real estate broker, and

BROKER ASSOCIATE is presently engaged in business as a real estate broker properly licensed by the State of Oregon,

**THEREFORE**, in consideration of the mutual promises and covenants contained herein, it is agreed as follows:

### **AGREEMENT**

1. **Independent Contractor Relationship:** BROKER and BROKER ASSOCIATE intend that the relationship established by this Agreement be one of independent contractor and not that of employee, servant, joint venturer or partnership. BROKER ASSOCIATE will exercise their own judgment and discretion in the manner in which BROKER ASSOCIATE carries out listing and selling activities subject to compliance with Oregon state statutes, Real Estate Agency rules and the terms and conditions of this Agreement. BROKER ASSOCIATE will maintain their status as a properly licensed real estate broker during the term of this Agreement. It is expressly

understood that BROKER ASSOCIATE will not be subject to BROKER'S control as to the manner and means of conducting listing and sales activity and is bound only by applicable laws and regulations and the terms of this Agreement in procuring the results stated herein.

**2. Listing and Sales Activity:** BROKER agrees to make all current listings not otherwise temporarily assigned exclusively to another broker associate available to BROKER ASSOCIATE and provide BROKER ASSOCIATE with other information regarding prospective purchasers, lessees and renters. BROKER will provide BROKER ASSOCIATE with a copy of suggested office policies and otherwise cooperate with BROKER ASSOCIATE in obtaining the results stated in this Agreement. However, nothing in this Agreement shall be construed to require BROKER ASSOCIATE to follow any recommended office policy or accept any particular listing or sales assignment, nor will BROKER have any right to require BROKER ASSOCIATE to represent or otherwise provide services to any particular person or restrict BROKER ASSOCIATE'S efforts to particular parties or areas. BROKER shall exercise no control, unless required by law, over BROKER ASSOCIATE'S floor time, sales techniques, client or customer services, schedule, hours, inventory, time off, training or vacations.

**3. Best Efforts:** BROKER ASSOCIATE agrees to use their best efforts and work diligently to solicit additional listings and customers on behalf of BROKER, to sell, exchange, lease or rent properties listed by BROKER or cooperating brokers and promote the real estate transaction business to the mutual benefit of both parties. BROKER ASSOCIATE shall assume full responsibility and discretion regarding the means and methods used in this regard and it is expressly understood that BROKER, subject to the real estate laws of the State of Oregon and rules of the Oregon Real Estate Agency, does not hereby gain any right to direct or control BROKER ASSOCIATE in the means and methods by which BROKER ASSOCIATE obtains additional listings and customers, sells, leases or rents properties or otherwise promotes the real estate transaction business.

**4. Office Facilities:** BROKER shall make available for BROKER ASSOCIATE'S use, equally with other licensees, office facilities maintained by BROKER for the conduct of real estate transactions. Such facilities are provided by BROKER as part of the negotiated commission sharing agreement memorialized by EXHIBIT A, attached hereto. BROKER ASSOCIATE shall be responsible for providing all other equipment, tools, supplies, service and other items necessary to obtain the results specified by this Agreement. BROKER shall make no advance on commissions to defray BROKER ASSOCIATE'S expenses.

**5. Personal Assistants:** BROKER ASSOCIATE, subject to the laws of the State of Oregon and rules of the Oregon Real Estate Agency, may hire others to assist them in performance of their obligations under this Agreement provided, however, BROKER ASSOCIATE has entered into a separate written agreement with BROKER regarding assistants. Other than supervision by BROKER to the extent required by real estate statute and rule, or pursuant to a separate Control and Supervision Agreement, BROKER ASSOCIATE shall supervise and be responsible for any personal assistant hired or engaged by BROKER ASSOCIATE. BROKER ASSOCIATE shall enter into such written agreements with their assistants as are required by law. BROKER

ASSOCIATE agrees to perform all the duties of an employer should BROKER ASSOCIATE establish such a relationship with a personal assistant. BROKER ASSOCIATE shall indemnify, defend and hold harmless BROKER from any claim or liability resulting from BROKER ASSOCIATE'S hiring of a personal assistant.

**6. Authority, Liability, Costs and Expenses:** BROKER ASSOCIATE shall have no authority to bind BROKER by any promise or representation except by operation of law or when specifically authorized by BROKER. Other than as provided in this Agreement, BROKER ASSOCIATE shall bear all costs and expenses necessary to obtain the results specified in this Agreement including, but not limited to, all business license fees, professional dues and license fees, insurance, business cards, taxes and similar expenses. All advertising of any kind, including on-line communications, shall be consistent with BROKER'S Office Manual advertising policy. BROKER ASSOCIATE shall carry, and provide BROKER with proof of, automobile and other insurance suitable to the risks created by BROKER ASSOCIATE'S business activities. As an independent contractor, BROKER ASSOCIATE acknowledges that BROKER is not BROKER ASSOCIATE'S employer and will not be responsible for withholding state or federal taxes, providing workers' compensation insurance, unemployment insurance or other state, federal or local employer/employee requirements. BROKER ASSOCIATE warrants that as an independent business entity they will comply with all state, federal and local regulations regarding the operation of BROKER ASSOCIATE'S business and defend, indemnify and hold harmless BROKER from any liability arising from BROKER ASSOCIATE'S business activities unless otherwise provided for under law or the terms of this Agreement.

**7. Compensation:** When BROKER ASSOCIATE performs any services under this Agreement for which a commission is earned and collected, the commission shall be divided between BROKER and BROKER ASSOCIATE as set out in Exhibit A attached hereto and expressly incorporated by this reference. Commissions to be charged clients for any services performed under this Agreement shall be those determined by BROKER unless it is first expressly agreed otherwise in writing. In the event of special arrangements with clients regarding commissions, BROKER and BROKER ASSOCIATE may agree in advance, and in writing, to a division other than that set out in Exhibit A. Should two or more broker associates participate in services for which a commission is paid, or claim to have done so, the commission, over and above that accruing to BROKER, shall be divided between the participating broker associates according any agreement between them. If no agreement is made regarding the division between or among participating broker associates, the matter shall be decided pursuant to the Dispute Resolution Clause of this Agreement. Any distribution of commissions earned and collected by BROKER shall take place as soon as practical after collection of such commissions. Neither BROKER nor BROKER ASSOCIATE shall be liable to the other for any commission, or portion thereof, not collected. BROKER ASSOCIATE is not entitled to any advance payment for future commissions and any action against third-parties for collection of any commission can be maintained only in the name of BROKER.

**8. Termination of Agreement:** This Agreement may be terminated in writing by either party upon notice of \_\_\_\_\_ days. Associate agrees to conduct all professional real estate activity in

accord with BROKER'S Office Policies concerning professional real estate activity. BROKER ASSOCIATE shall be entitled to any commissions earned under the Agreement which accrued prior to termination. BROKER ASSOCIATE acknowledges that all listings and prospects are those of BROKER as its sole property and no commission or other compensation will be paid by BROKER for any services rendered for which the right to a commission has not already accrued except as provided under Exhibit A. BROKER ASSOCIATE shall return all listings, manuals, materials, forms, and other property of BROKER immediately upon termination of this Agreement. BROKER ASSOCIATE shall not use to their advantage, or the advantage of others, any proprietary or confidential information gained as a result of BROKER ASSOCIATE'S business association with BROKER. It is expressly agreed that, following termination, this Agreement shall continue to govern all disputes and claims between BROKER and BROKER ASSOCIATE arising from or connected with the business relationship created by this Agreement.

**9. Dispute Resolution:** All disputes or claims of any kind between BROKER and BROKER ASSOCIATE, or between BROKER ASSOCIATE and other BROKER ASSOCIATES licensed with BROKER, connected with or arising from this Agreement, shall be submitted to binding arbitration unless otherwise adjusted by mutual agreement of the parties. If the dispute is covered by the Bylaws of a Board of REALTORS® of which all disputants are members, the matter shall be submitted to the Board for resolution pursuant to the Bylaws of that Board. If no Board of REALTORS® has jurisdiction, or will accept jurisdiction, the dispute shall be submitted to arbitration under the rules of the American Arbitration Association, or to such other arbitration rules as the parties shall mutually agree. Arbitration shall be final and binding. The prevailing party in any dispute shall, in the discretion of the arbitrator, be entitled to attorney fees in addition to other relief.

**10. Entire Agreement:** This Agreement is the entire Agreement between BROKER and BROKER ASSOCIATE. The terms of this Agreement are the complete, final expression of the Agreement between BROKER and BROKER ASSOCIATE and cannot be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This Agreement cannot be modified, altered or amended other than by further written agreement signed by both BROKER and BROKER ASSOCIATE.

BROKER

BROKER ASSOCIATE

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(Phone)

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

**EXHIBIT A**

This EXHIBIT shall be part of the Agreement between \_\_\_\_\_ (“BROKER”) and \_\_\_\_\_ (“BROKER ASSOCIATE”), dated \_\_\_\_\_, \_\_\_\_\_. This EXHIBIT may be revised or amended only in writing and if so revised or amended, a signed and dated copy of the revisions or amendments shall be attached hereto.

**BROKER and BROKER ASSOCIATE AGREE:**

1. Any listing commission collected by BROKER as a result of BROKER ASSOCIATE’S efforts under the Agreement noted above shall be divided as follows:

BROKER ASSOCIATE ..... \_\_\_\_\_%

BROKER ..... \_\_\_\_\_%

2. Any sales commission collected by BROKER as a result of BROKER ASSOCIATE’S efforts under the Agreement noted above shall be divided as follows:

BROKER ASSOCIATE ..... \_\_\_\_\_%

BROKER ..... \_\_\_\_\_%

3. Any rental or lease commission collected by BROKER as a result of BROKER ASSOCIATE’S efforts under the Agreement noted above shall be divided as follows:

BROKER ASSOCIATE ..... \_\_\_\_\_%

BROKER ..... \_\_\_\_\_%

4. Any commission(s) collected by BROKER on listings, sales, rentals or leases resulting from BROKER ASSOCIATE’S efforts prior to termination of their Agreement shall be divided in accordance with the above provisions. BROKER may, however, offset BROKER ASSOCIATE’S share by an amount necessary to reasonably compensate BROKER, or another BROKER ASSOCIATE, if they provide services necessary to complete the transaction. Any dispute regarding this provision shall be subject to the Dispute Resolution Clause of the Agreement noted above.

**BROKER**

**BROKER ASSOCIATE**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Company \_\_\_\_\_

Branch \_\_\_\_\_

### **PRINCIPAL BROKER DIVIDED CONTROL AND SUPERVISION AGREEMENT**

The Parties to this Divided Control and Supervision Agreement (Agreement) are:

Registered Principal Broker: \_\_\_\_\_

Associated Principal Broker: \_\_\_\_\_

The Parties to this Agreement understand that Oregon law allows a licensed principal broker who has registered a business name to divide control and supervision of associated real estate brokers with other principal brokers. Registered Principal Broker, having registered the above Company business name with the Oregon Real Estate Agency, wishes to divide with Associated Principal Broker the control and supervision of certain real estate brokers associated with Company.

In consideration of the above understanding, and the mutual promises and benefits exchanged here, the Parties now agree as follows:

1. Associated Principal Broker acknowledges his or her status as an independent contractor. This Agreement is not intended to and shall not be construed as evidence of the establishment of any status other than that of independent contractor. Associated Principal Broker shall remain completely responsible for his or her own business affairs. Under no circumstances shall this Agreement be construed to be, or be used as, evidence of any intent to change the legal relationship, or civil responsibilities, of the Company or either Party. This Agreement is for the sole purpose of dividing control and supervision of professional real estate activities under Oregon real estate law. Neither Party to this Agreement shall have any right or duty to control or supervise the business affairs of the other party or those of any associated real estate broker operating under an independent contractor agreement.

2. Pursuant to ORS 696.026, Registered Principal Broker agrees to divide control and supervision responsibilities with Associated Principal Broker. Associated Principal Broker agrees to assume control and supervision responsibilities for the professional real estate activities of those real estate brokers engaged by Company listed on Exhibit A to this Agreement (Assigned Agents). Assigned Agents may be identified by name, location or any other identifying characteristic. Associated Principal Broker shall supervise and control the professional real estate activity of the Assigned Agents to the extent required by real estate license law. Associated Principal Broker understands and acknowledges Associated Principal

Broker shall be solely responsible to the Oregon Real Estate Agency for Associated Principal Broker's own professional real estate activity and that of each Assigned Agent. All control and supervision shall be in accord with applicable laws and the policies and procedures set forth in the Company Office Policies and Procedure Manual. A copy of the Manual is hereby incorporated by reference.

3. Associated Principal Broker shall be responsible for establishing a record keeping system consistent with the Confidential Information Policy and Procedures section of the Company Office Policies and Procedures Manual. Associated Principal Broker agrees to maintain records of professional real estate activity and control and supervise the professional real estate activities of Assigned Agents in compliance with OAR 863-15-205(5), the Company Office Policies and Procedures Manual and this Agreement.

4. Either Party may terminate this Agreement upon ten (10) days written notice. Any modification to this Agreement, or Exhibit A, shall be in writing and signed by the Parties. This Agreement represents the entire agreement of the Parties.

Registered Principal Broker \_\_\_\_\_ Date \_\_\_\_\_

Associated Principal Broker \_\_\_\_\_ Date \_\_\_\_\_

Company \_\_\_\_\_  
Branch \_\_\_\_\_

## **BROKER ASSOCIATE/LICENSED PERSONAL ASSISTANT AGREEMENT**

The Parties to this Broker Associate/Licensed Personal Assistant Agreement (Agreement) are:

Broker Associate \_\_\_\_\_

Assistant \_\_\_\_\_

The Parties to this Agreement understand that a real estate broker who is eligible for, and has obtained, a principal broker's license may enter into written agreements with licensed personal assistants. Broker Associate and Assistant wish to enter into such an agreement for the benefit of their respective business interests.

In consideration of the above, and the mutual promises and benefits exchanged herein, the Parties agree as follows:

1. Assistant is properly licensed to engage in professional real estate activity in Oregon. Broker Associate is eligible for, and has obtained, a principal broker's license under OAR 863-015-040. Assistant and Broker Associate mutually agree to maintain their license status and any necessary professional designation(s) during the term of this Agreement.
2. Assistant understands that under Oregon law the professional real estate activity of a licensed personal assistant must be under the control and supervision of a principal broker. Broker Associate has entered into a separate Principal Broker Divided Control and Supervision Agreement regarding control and supervision of Assistant. A copy of that agreement is attached hereto and its terms incorporated by reference. Assistant shall at all times conduct his or her professional real estate activity in accord with Company Office Policies and Procedures, a copy of which Assistant hereby acknowledges having received.
3. Assistant agrees to use his or her best efforts and work diligently to assist Broker Associate and promote the real estate transaction business for Assistant's and Broker Associate's benefit. Assistant shall at all times act as Broker Associate's agent and shall have the same agency relationships with clients as does Broker Associate. Assistant shall not act on behalf of anyone other than Broker Associate. If Assistant intends to act as an independent contractor, Assistant and Broker Associate shall enter into an independent contractor agreement, a copy of which shall be attached to this Agreement and its terms incorporated herein. If not, Assistant shall be considered Broker Associate's employee. Under no circumstances shall Assistant be considered an employee of the Company or of Broker Associate's principal broker.
4. Broker Associate is authorized to compensate Assistant directly, in accord with the compensation schedule attached hereto or attached to Assistant's independent contractor agreement with Broker Associate. Broker Associate shall be solely responsible for any compensation to Assistant and Assistant shall have no claim for compensation against the Company or Broker Associate's principal broker. Broker Associate shall be solely responsible to

third-parties for any employer/employee duties or responsibilities, civil or criminal actions, judgments or awards, or other expense or liability that arise as a result of this Agreement.

5. This Agreement may be terminated by either Party upon ten (10) days written notice. This Agreement may only be modified in writing and represents the entire agreement of the Parties.

Broker Associate \_\_\_\_\_ Date \_\_\_\_\_

Assistant \_\_\_\_\_ Date \_\_\_\_\_

Company \_\_\_\_\_

Branch \_\_\_\_\_

**BROKER/BROKER ASSOCIATE LICENSED PERSONAL ASSISTANT AGREEMENT**

The Parties to this Broker/Broker Associate Licensed Personal Assistant Agreement (Agreement) are:

Broker \_\_\_\_\_

Broker Associate \_\_\_\_\_

The Parties to this Agreement understand that a real estate broker who is eligible for and has obtained a principal broker’s license may enter into written agreements with one or more licensed personal assistants. Broker Associate wishes to enter into such agreement(s) with one or more licensed personal assistants.

In consideration of the above, and the mutual promises and benefits exchanged here, the Parties agree as follows:

1. Broker Associate is eligible for and has obtained a principal broker’s license under OAR 863-015-040. Associate may, by written agreement, engage licensed personal assistants to assist in his or her professional real estate activities. Broker Associate shall be solely responsible for any employer/employee duties or responsibilities, civil or criminal actions, judgments or awards, or other expense or liability which arise as a result of engaging a licensed personal assistant.
2. Broker Associate shall provide Broker with a copy of each written agreement between Broker Associate and any licensed personal assistant(s) before the assistant engages in any professional real estate activity on Associate’s behalf. Agreements between Broker Associate and a licensed personal assistant shall conform to the requirements of OAR 863-15-195(2). Broker Associate shall notify Broker immediately of any change in the licensed personal assistant’s relationship with Associate.
3. Broker Associate understands that under Oregon law the professional real estate activity of a licensed personal assistant must be under the control and supervision of a principal broker. Broker Associate has entered into a separate Principal Broker Divided Control and Supervision Agreement with Broker regarding control and supervision of Broker Associate’s licensed personal assistant(s), a copy of that Agreement shall be attached hereto and its terms incorporated by reference.
4. Broker hereby authorizes Broker Associate to compensate Broker Associate’s licensed personal assistant(s) in the manner and means provided for in the written agreement between Broker Associate and his or her licensed personal assistant(s). Broker Associate shall be responsible for making certain all licensed personal assistants maintain their license status and that all necessary professional fees or dues are paid. Any change in license status, or failure to

maintain necessary professional standing, shall automatically terminate this Agreement with respect to the affected licensed personal assistant.

Broker \_\_\_\_\_ Date \_\_\_\_\_

Broker Associate \_\_\_\_\_ Date \_\_\_\_\_

Company \_\_\_\_\_  
Branch \_\_\_\_\_

**VIRTUAL TOUR PERMISSION**

Seller hereby gives permission for Seller’s agent(s) to develop and use for advertising purposes a virtual tour of the inside of Seller’s home. The virtual tour shall consist of images, video and associated text or audio necessary to fairly represent the features of the home to potential buyers. All virtual tours shall be developed and used in a manner consistent with the company’s Virtual Tour Policy. Unless otherwise agreed, agents shall provide Seller with a copy of the virtual tour prior to using it to advertise the property.

Seller \_\_\_\_\_

Date \_\_\_\_\_

Seller \_\_\_\_\_

Date \_\_\_\_\_

*The following forms should be obtained from the Oregon Real Estate Agency:  
Oregon Real Estate Agency Disclosure Pamphlet  
Disclosed Limited Agency Agreement for Sellers  
Disclosed Limited Agency Agreement for Buyers*

*(BROKER TO INSERT APPROVED FORMS IN THIS SECTION)*