

Alabama Addendum

to the Independent Contractor Agreement

Real Broker, LLC (the “**Company**”) makes this addendum a part of the Independent Contractor’s Agreement to set forth state specific policies and procedures for an agent affiliating with the Company in the State of Alabama. This addendum supersedes all previous Alabama addendums. The Company reserves the right to modify, suspend, or discontinue any of the terms, policies, procedures and/or benefits described in this addendum with proper notice.

Each company or branch office must be under the direction and supervision of a qualifying broker (as defined hereunder) licensed at that address.

The law that governs your profession is found in the Alabama Real Estate License Law of 1951, as amended, in [Ala. Code §34-27-1 et seq](#) (the “**Code**”). The Code created the Alabama Real Estate Commission (the “**Commission**”), in [Ala. Admin. Code r. 790-X-1 et seq](#), which is empowered to create rules and regulations regarding your profession. Please familiarize yourself with the Code, and rules and regulations set forth by the Commission.

LICENSE REQUIREMENTS

Activities that Require License: Alabama requires individuals and entities (including rental leasing and property management services) to obtain licensure if they do the following within the State of Alabama:

- Sell, exchange, purchase, rent, or lease real estate;
- Offer to sell, exchange, purchase, rent, or lease real estate;
- Negotiate or attempt to negotiate the listing, sale, exchange, purchase, rental, or leasing of real estate;
- List or offer or attempt or agree to list real estate for sale, rental, lease, exchange, or trade;
- Auction, offer, or attempt or agree to auction, real estate;
- Buy or sell or offer to buy or sell, or otherwise deal in options on real estate;
- Aid, attempt, or offer to aid in locating or obtaining for purchase, rent, or lease any real estate situated;
- Procure or assist in procuring of prospects for the purpose of effecting the sale, exchange, lease, or rental of real estate;
- Procure or assist in the procuring of properties for the purpose of effecting the sale, exchange, lease, or rental of real estate; and
- Present himself or herself, or be presented, as being able to perform an act for which a license is required; and

- Enter into an agreement or contracting for the collection and escrow of security deposits, and entering into an agreement or contracting for the collection and escrow of rental payments for properties.

[SEE HERE](#) and [HERE](#).

Company or Branch Requirements: In addition to the requirements above, “an applicant for a company or broker license shall maintain a place of business.” Each real estate company must register with the State of Alabama, obtain a real estate company license, and designate an officer, partner, or employee of the company to be its principal agent (“**Qualifying Broker**” is defined as “a broker under whom a sole proprietorship, corporation, partnership, branch office, or lawfully constituted business organization is licensed, or a broker licensed as a company to do business as a sole proprietorship who is responsible for supervising the acts of the company or proprietorship and all real estate licensees licensed therewith”). The Qualifying Broker must “be in a position to actually supervise the real estate activities of the associate broker or salesperson on a full-time basis.” [SEE HERE](#).

A real estate place of business must comply with certain signage requirements as put forth by the Commission. [SEE HERE](#).

An application for a company license or branch office license must be made by a Qualifying Broker who must maintain a place of business in Alabama and who is under contract with the Company. If the applicant for a company or broker license maintains more than one place of business in Alabama, he or she must have a company or branch office license for each separate location or branch office. Every application must state the location of the company or branch office and the name of its Qualifying Broker.

No person may serve as Qualifying Broker at more than one location. The Qualifying Broker for the branch office and the Qualifying Broker for the company must share equal responsibility for the real estate activities of all brokers, salespersons, or company (the “**Licensee**”, presumably holding a valid Alabama license) assigned to the branch office or company.

DUTIES OF LICENSEES:

A Licensee must:

- Provide brokerage services to all parties to the transaction honestly and in good faith;
- Exercise reasonable skill and care in providing brokerage services to all parties;
- Keep confidential any information given to the licensee in confidence, or any information obtained by the licensee that the licensee knows a reasonable individual would want to keep confidential, unless disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge, or is authorized by the party in writing;

- ❑ Account for all property coming into the possession of the licensee that belongs to any party to the real estate transaction;
- ❑ When assisting a party in the negotiation of a real estate transaction, present all written offers in a timely and truthful manner;
- ❑ Act on behalf of the licensee or his or her immediate family, or on behalf of any other individual, organization, or business entity in which the licensee has a personal interest only with prior timely written disclosure of this interest to all parties to the transaction;
- ❑ Loyal represent the best interests of the client by placing the interests of the client ahead of the interests of any other party, unless loyalty to a client violates the duties of the licensee to other parties;
- ❑ Disclose to the client all information known by the licensee that is material to the transaction and not discoverable by the client through reasonable investigation and observation, except for certain confidential information. A licensee has no affirmative duty to discover the information; and
- ❑ Fulfill any obligation required by the agency agreement, and any lawful instructions of the client that are within the scope of the agency agreement, that are not inconsistent with other duties.

A broker who represents more than one client in a real estate transaction owes the duties to each client, except where the duties to one client will violate the fiduciary duties of the licensee to other clients.

A broker may provide brokerage services as a limited consensual dual agent only with the prior written, informed consent of all clients of the broker in the transaction.

A Licensee may provide requested information which affects a transaction to any party who requests the information, unless disclosure of the information is prohibited by law.

When accepting an agreement to list an owner's property for sale, the broker or his or her Licensee must, at a minimum, accept delivery of and present to the consumer all offers, counteroffers, and addenda to assist the consumer in negotiating offers, counteroffers, and addenda, and to answer the consumer's questions relating to the transaction. [SEE HERE](#) and [HERE](#).

Office Policy: Any broker acting in a real estate transaction must adopt a written agency disclosure office policy which specifically enumerates the types of brokerage service arrangements the Licensee may offer or accept. The Qualifying Broker for each brokerage company will provide every Licensee a copy of the agency disclosure policy regarding the types of brokerage services offered by their company. This policy must be explained to all Licensees at least once a year. A form acknowledging receipt of the office policy statement and a satisfactory explanation of its contents must be signed by each Licensee and a copy retained by the brokerage company for 3 years. [SEE HERE](#).

Deals and Transactions: At the initial contact between a Licensee and the consumer and until such time a broker enters into a specific written agreement to establish an agency

relationship with one or more of the parties to a transaction, the Licensee will not be considered an agent of that consumer.

An agency relationship will not be assumed, implied, or created without a written bilateral agreement establishing the terms of the agency relationship.

As soon as reasonably possible and **before any confidential information is disclosed to any other person by a Licensee**, the Licensee must provide a written disclosure form to a consumer for signature describing the alternative types of brokerage services that are available to clients and customers of real estate brokerage companies and inform the consumer as to the specific types of brokerage services that are provided by his or her company (even though a broker is not required to offer or engage in any one or in all of the alternative brokerage arrangements). The Licensee will provide a written form to the consumer for their signature describing the alternative types of brokerage arrangements available. All rental or property management services are excluded from these requirements. Further, a Licensee does not need to comply with these requirements when engaged in transactions with any corporation, non-profit corporation, professional corporation, professional association, limited liability company, partnership, any partnership created under the Uniform Partnership Act (commencing at Section 10-8A-101), real estate investment trust, business trust, charitable trust, family trust, or any governmental entity in transactions involving real estate.

After disclosure, the consumer may make an affirmative election of a specific type of brokerage arrangement that is available from the real estate brokerage company. The brokerage agreement must contain a statement of the terms and conditions of the brokerage services that the broker will provide. In the absence of a signed brokerage agreement between the parties, the transaction brokerage relationship will remain in effect.

When serving as a transaction broker, the duties of the Licensee to all the parties to a real estate transaction are limited to those which are enumerated in [HERE](#). A signed brokerage agreement between the parties or, in the absence of a signed brokerage agreement, the continuation of the transaction brokerage relationship, will constitute informed consent by the consumer as to the services the consumer will receive from the broker.

Disclosure forms must be provided to buyers and sellers. All real estate brokerage firms operating within the State of Alabama must use the same agency disclosure forms. Disclosure forms describing the alternative types of brokerage services identified above will be written by the Alabama Real Estate Commission.

The consumer may enter into a written contract with a broker which contains provisions for services not specifically identified in the written disclosure form. [SEE HERE](#).

CONTINUING EDUCATION REQUIREMENTS

All salespersons must complete 15 hours of continuing education each license period with at least 3 hours in Risk Management and 12 hours of other Commission approved courses. All Brokers must complete 15 hours of continuing education each license period with at least 3 hours in Risk Management, 3 hours in Brokers courses and 9 hours of other Commission approved courses. License period is defined as “that period of time beginning on October 1 of a year designated by the commission to be the first year of a license period and ending on midnight September 30 of the year designated by the commission as the final year of that license period”. The Commission may establish a one-year or multi-year license period. [SEE HERE](#).

LICENSE RENEWAL

Every License expires at midnight on September 30 of the final year of each license period. The Commission will mail a renewal form to the Licensee’s place of business, if an active Licensee, or to his or her residence, if an inactive Licensee, prior to August 1 of the final year of each license period. In addition to paying a renewal fee, Licensee is required to complete continuing education requirements prior to renewal. [SEE HERE](#).

COMPENSATION/COMMISSION:

Every salesperson must be paid by his or her Qualifying Broker. When a salesperson changes Qualifying Brokers but is owed money under his or her contract for an upcoming sale, the salesperson still must receive the money from his or her Qualifying Broker.

There are no statutory restrictions on commission rates, but net listing agreements (where the seller receives a net price for the sale of the property with the broker receiving the excess as a commission) are prohibited in Alabama. [SEE HERE](#).

Each real estate salesperson or associate broker must pay over to his or her qualifying broker all funds coming into his or her possession in trust for other parties immediately upon receipt of same. [SEE HERE](#).

A salesperson or associate broker may own a lawfully constituted business organization, including but not limited to a corporation, limited liability company, or limited liability corporation for the purpose of receiving commissions. [SEE HERE](#).

SIGNAGE

Licensees may advertise real property for sale, lease, or transfer by other conveyance using signs affixed to or located on the real property. [SEE HERE](#).

A place of business must be identified by a sign which sets out the name of the company as licensed with the Commission. In places where an exterior sign is permitted a sign must be posted outside of the office so that it is plainly and readily visible to the public. In places where an exterior sign is not permitted, an interior sign must be posted. The interior sign will be in keeping with the building restrictions, and if permitted, will be posted in the

entry area and on the door of the office or suite of offices. Appropriate files and records must be maintained in the place of business. [SEE HERE](#).

ADVERTISING:

It is a violation to publish or cause to be published any advertisement which deceives or which is likely to deceive the public, or which in any manner tends to create a misleading impression or which fails to identify the person causing the advertisement to be placed as a licensed broker or salesperson.

Real estate companies, brokers or salespersons must advertise by using the name in which they are legally licensed to do business.

“Team”, “Associate” or “Group” advertising can be acceptable and will not result in violations when in compliance as follows:

When using a Team”, “Associate” or “Group” name, which is not a legally licensed name, a name of a licensee, in addition to the name of the Qualifying Broker or company, to which the broker associate(s) or salesperson(s) in the “Team”, “Group” or “Association” are licensed, must also be included as they are legally licensed to do business. The appropriate size of letter correlation must also be satisfied.

For example, if Sam and Sally Salespersons form “Team S and S Associates” and advertise as such, at least one licensee member of the “Team or Association” must appear and you must make sure your name or company name appears as required by law. Any given ad you place may not be cited in a formal complaint but if a member of the public is misled, this would likely result in a formal complaint being filed against you and the Company. [SEE HERE](#).

Online Advertising: Disclosure is key to most online advertising. This is the case for most online forums (internet, chat, emails, IM, Banner Advertisements and Multimedia Advertisements to name a few). “Licensee” and “Licensed Firm” disclosure will help to ensure that online consumers know when they are dealing with licensed entity, who they are, and where their primary business office is located.

- All Internet related advertising that consumers can view or experience as a separate unit (for example, e-mail messages or Web pages) should require full disclosure (meaning, both “licensed firm disclosure” and “licensee disclosure”). At some point during an exchange of direct online messages (of any nature) between consumers and a licensed entity, the licensed entity should make full disclosure in some written form that is understandable and easily available to the recipient prior to providing, or offering to provide, licensable services. The burden of proof of such prior disclosures falls on the licensed entity when addressing a consumer complaint.
- Whenever a licensed entity owns a Web “page” or controls its content, every viewable page should include (or link to) a full disclosure. (A “viewable page” is

one that may or may not scroll beyond the borders of the screen and includes the use of framed pages).

- E-mail, Newsgroups, Discussions Lists, Bulletin Boards should include a full disclosure at the beginning or end of each message.
- Full disclosure is not necessary for Instant Messages if the licensed entity provided the written full disclosures via another format or medium (e.g. e-mail or letter) prior to providing, or offering to provide, licensable services.
- Full disclosure prior to providing, or offering to provide, licensable services during the chat session or in text visible on the same Web page that contains the chat session if the licensed entity controls the Web site hosting the chat session.
- Banner Ads should link to a Web page that has full disclosure, unless the banner ad has said disclosure.
- For Twitter, the Commission will allow “one click” to get to the Company name. This means that your company name will need to be on your main Twitter page that can be reached by clicking on the name of your account in the tweet ([SEE HERE](#) for guidance on Twitter).

[SEE HERE](#).

NOTE: Do not use the seal of the Commission, the logo of the Commission, or any colorable imitation of such words, seal, or logo in connection with any merchandise, impersonation, solicitation, commercial activity, or trade association activity in a manner that conveys the impression that such is approved, endorsed, or authorized by the Commission without express written permission from the Commission. [SEE HERE](#).

RECORD MANAGEMENT:

Records required to be maintained by the Qualifying Broker should be kept by the Qualifying Broker. Qualifying brokers must maintain certain records for three years. Records to be kept include “all contracts, leases, listings and other records pertinent to real estate transactions,” records for transactions that never close, as well as a copy of the estimated closing statement, or net sheet, when required to be provided, and records pertaining to trust funds. [SEE HERE](#), [HERE](#), and [HERE](#).

Additional best practices for record management include the following:

- Maintain at least three separate accounts to track funds received and disbursed. 1) security deposits; 2) rent receipts; and 3) company operating funds. The first two accounts are to contain no funds other than those for which they are designated;
- A rental receipt should be deposited the appropriate account before the rental management company takes its commission or fee;
- Duplicate deposit tickets should be retained in company records to verify deposit dates, amounts and sources of funds;

- All check stubs should have an explanation of the purpose of that check. Checkbooks should be balanced regularly with dated deposits noted on the check stubs;
- A list of funds being held for others should be maintained and should be consulted and marked with any changes insuring an accurate knowledge of the amount needed in the trust accounts;
- Lease files should contain a copy of the management agreement between the company and the owner of the property, copies of the statements to the owners as to records of rent received and disbursed and maintenance bills;
- Maintain separate cards for each property with the information on security deposits, rent receipts and disbursements to owners, or mortgage payments made on behalf of owners;
- Prepare for a continuous list of pending contracts with the amount of earnest money involved. Mark off each transaction as it closes, the money is refunded, or it is forfeited by purchaser or seller;
- Keep all pending contracts separate from closed contracts;
- Maintain a separate escrow account for rental or leased property to distinguish it from sales contracts which do not have repairs, owner's payments, etc.; and
- Keep written receipts for all funds received, whether by cash or check, as a means of internal control.

[SEE HERE.](#)

UNLICENSED ASSISTANTS:

The duties of clerical or office employees of a real estate company must be limited to the duties normally attributed to such positions. No such employee of a licensee or any other person may physically show listed property, solicit or accept listings, negotiate sales or leases, hold himself out as engaged in the real estate business or perform any other act for which a license is required unless properly licensed. [SEE HERE.](#)

For example, an unlicensed person may not do the following:

- Prepare or discuss a listing or property management agreement with an owner;
- Show any property;
- Drive or accompany a prospect to a property;
- Negotiate or discuss the terms of a sale or rental;
- Procure or assist in procuring of prospects for the purpose of the sale, exchange; lease, or rental of real estate;
- Prepare or have a prospect sign an offer to purchase or lease; and
- Present an offer to an owner.

[SEE HERE.](#)

LIABILITY & REPORTING CRIMINAL OFFENSES

Misrepresentations: A client is not liable for a misrepresentation made by a broker in connection with the broker providing brokerage services unless the client knows or should have known of the misrepresentation or the broker is repeating a misrepresentation made by the client to the broker. A Licensee will not be liable for providing false information to a party in a real estate transaction if the false information was provided to the Licensee by a client of the Licensee or by a customer or by another Licensee unless the Licensee knows or should have known that the information was false. [SEE HERE](#).

Complaints: Any Licensee may be subject to a Commission hearing if there is a formal complaint lodged against them. [SEE HERE](#). Any person, by verified complaint in writing, may submit a complaint of violation to the Commission. The Commission or its staff may investigate a suspected violation on its own. Review [THIS LIST HERE](#) for various violations the Commission, by itself or by verified complaint of any person, may investigate.

Criminal Offenses: Within 10 days after receiving a notice, Licensee must notify the Commission at the beginning of any criminal prosecution against them and again after a verdict or dismissal of every criminal prosecution against them. Every Licensee must also notify the Commission at the beginning of a civil complaint if it involves a real estate transaction or involves the goodwill of an existing business and again when a civil action in which he or she was a defendant, and which involved a real estate transaction, or the goodwill of a real estate business has resulted in a judgment or been dismissed. Traffic offenses are excluded from this requirement. [SEE HERE](#).