

North Dakota

Addendum to Real Broker, LLC's National Policies & Procedures Manual

Real Broker, LLC ("Company") makes this addendum a part of the National Policies & Procedures Manual to set forth state specific policies and procedures for an agent affiliating with the Company ("Agent") in the State of North Dakota. This addendum supersedes all previous Massachusetts state addenda. 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.

Agency

Agency Disclosure

- Agent shall, *at first substantive contact*, with Buyers, Sellers, Tenants or For Sale By Owners (FSBO) present the required Agency Disclosure forms and shall discuss with buyers and sellers the agency/principal relationships.
- A change in licensee's representation that makes the initial disclosure incomplete, misleading, or inaccurate requires that a new disclosure be made at once.
- No person licensed as a real estate broker or salesperson shall represent any party or parties to a real estate transaction, or otherwise act as a real estate broker or salesperson, unless the agent makes an affirmative written disclosure to all parties to the transaction as to which party they represent in the transaction. The disclosure shall be included in the file and acknowledged by separate signatures of the buyer and/or seller.
- Agency disclosure on purchase agreements must be completed on every residential sale, including new construction sales and For Sale By Owners and other sales where the parties utilize their own forms.

Agency Policy

- Company does not offer sub-agency through the MLS or other co-operating offices.
- Disclosed dual agency for the in-house List and Sale by the same agent or with the designated broker as a listing or selling agent in the transaction.
- Appointed Agency Election
 - If an agent is not representing either party, the agent would be a facilitator or a non-agent.

Appointed Agency/Designated Agency

In a real estate transaction where both buyer & seller are represented by individual Agents, in accordance with North Dakota law, the broker or their designee will appoint those sales associates to act as Appointed or Designated Agents for a specific client to the exclusion of all other affiliated agents with Company.

In addition to all other appropriate agency addenda as required by North Dakota law, buyer and seller clients must read and sign the appointed Agency Disclosure portion of the Exclusive Right to Represent Buyer Contract or the Listing Contract, whichever applies, and give permission for the Broker or their designee to make said appointment.

Any confidential information gained from the seller or the buyer must be closely held as such by the Appointed Agent and the Broker or their designee, both from the public and from any sales associates of Company or any other brokerage.

All confidential information must be protected by the appointed Agent in general office conversation, sales meetings, office tours, telephone conversations, files, faxes, and any other form of written or verbal communication. If a confidential phone call needs to take place, the agent should take the call to a private conference room or to their car, where no one else can overhear the conversation.

Company will maintain a master listing file for all sellers that will contain all information pertaining to the listing. The Appointed Agent can maintain a separate file for the seller's confidential information, accessible only by that sales associate and the Broker or their designee. The Broker or their designee will review all master listing files at the time of listing to ensure that confidential information is not available to other Company associates.

The faxing of any confidential information is strongly discouraged. If, however, it should be necessary, all confidential information being faxed will be closely monitored by the Appointed Agent. ***Scanning and emailing the information is a much more secure form of communication than faxing.***

Company sales associates will not discuss any confidential information with anyone (except when required to discuss with the Manager/Broker or their designee for purposes of problem resolution) unless the client has given written permission to do so.

Confidentiality outside the office: Confidentiality also includes not “name dropping” clients that you are representing or names of parties in a transaction. This gossip is needless and unprofessional.

Take caution when answering your telephone in public places such as restaurants, sporting events, restrooms, meetings, or public gatherings. You have no way of knowing if the buyer, seller, relative, or competing offer is at the next table!

Disclosed Dual Agency for the In-House sale with the Appointed Agency Election Office Policy

SELLING PROCEDURES

1. Company may represent both the buyer and the seller as appointed agents or as a disclosed dual agent when we are both the listing and selling brokerage company (an in-house listing/sale).
2. Company represents the buyer exclusively when we are the selling brokerage company on properties listed with any other brokerage company.
3. Company may appoint an Exclusive Buyer's Agent to represent the buyer exclusively to the exclusion of all other Brokerage Company sales associates. In which case the other sales associates will represent the seller exclusively on their individual listings. The Exclusive Buyer's Agent will be a disclosed dual agent when they sell their Buyer Client one of their own individual listings where they

are also the Exclusive Agent of the Seller; or if the Designated Broker is involved as either the listing agent or the selling agent in an in-house transaction.

4. Agent shall, at the first substantive contract, provide the Agency Relationships disclosure form to, and review with, buyer. Agent shall obtain a signed acknowledgment of receipt of the form. If buyer elects to have Buyer Representation and consent to Agent acting as an appointer agent of the buyer, the Buyer Agency Contract shall be executed with copies given to all parties.
5. Agent shall inform the buyer of Company policy to represent both the buyer and seller as a disclosed dual agent on the in-house listing. Also, in appointed agency, only the buyer's appointed agent selling their own listing or a sale involving the Designated Broker would be a disclosed dual agency. Agent shall obtain the buyer's consent to do so in the Buyer Agency Contract. Also, Agent shall ensure that the Dual Agency section will be signed in the purchase agreement.
6. Agent shall inform the buyer of Company policy to represent the buyer exclusively on the sale of property listed with any brokerage company.
7. On those listings that do not offer sub-agency, Agent does not need to contact the listing brokerage company regarding the rejection of sub-agency prior to showing the property. This information is indicated on the MLS information sheet.
8. On those properties that do not offer cooperation and compensation to buyer's agents, Agent shall either make separate arrangements with the buyer by entering into a written compensation agreement with them or make a separate agreement for compensation with the listing brokerage company (if any), or the for sale by owner, in writing prior to showing the property to the buyer when possible.
9. Agent shall confirm in the purchase agreement that we represent the buyer exclusively as the selling brokerage company on the sale of property listed by any other brokerage company.
10. When Company appoints a Buyer's Agent to represent the buyer exclusively to the exclusion of all other sales associates and brokers of Company, the disclosure of that appointment must be made at the time of the signing of the Exclusive Right to Represent and again in the Purchase agreement.

LISTING PROCEDURES

1. Company represents the seller exclusively when we are the listing brokerage company but not the selling brokerage company.
2. Company may represent both the buyer and the seller when we are both the listing and selling Brokerage Company on the in-house sale as Appointed agents or disclosed dual agents.
3. Company may appoint an Exclusive Seller's Agent to represent the seller exclusively to the exclusion of all other Company sales associates. In which case the other sales associates may represent the buyer exclusively. The Exclusive Seller's Agent will be a disclosed dual agent when they sell the Seller's property to their Buyer Client; or if the Designated Broker is involved as either the listing agent or selling agent.
4. Company will not offer sub-agency through the MLS or other similar information source to other selling offices.

5. Agent shall, at the first substantive contact, provide to, and review with, the Seller with the Agency Relationships disclosure form. Agent shall obtain a signed acknowledgment of receipt of the form.
6. If Seller desires to have Seller Representation and consents to Agent acting as an appointed agent, the Exclusive Right to List shall be signed and copies shall be provided to all parties.
7. Agent shall Inform the seller of Company policy to represent both the buyer and seller as a disclosed dual agent on the sale of an in-house listing or the appointed agency provision providing that only the appointed agent who sells their/her own seller's listing to their/her buyer client will be the disclosed dual agent; or a sale involving the Designated Broker as a listing or selling agent. Agent shall ensure that the written consent for dual agency has been executed at the time of listing the property. Also, Agent will ensure that the Dual Agency section will be included in the purchase agreement.
8. Agent shall explain to the seller that other brokerage companies may represent the buyer or could be a non-agent/facilitator. The listing and selling office's agency relationship will be confirmed in writing no later than the signing of a purchase contact.
9. When Company is appointing a Seller's Agent to represent the seller exclusively, to the exclusion of all other sales associates at the Company, the disclosure of that appointment must be made at the time of the listing but may be amended with consent from time to time.

If a buyer, prospective buyer, or seller is not represented by a real estate brokerage firm in the real property transaction, that buyer or seller remains a customer, and, as to that customer, the real estate brokerage firm and the real estate brokerage firm's licensees are non-agents that owe the following legal duties: to perform customary acts typically performed by real estate licensees in assisting a transaction to the transaction's closing or conclusion if these acts are to assist the customer for which the services are directly provided; to perform these acts with honesty and good faith; and to disclose to the customer any adverse material facts actually known by the licensee which pertain to the title of the real property, the physical condition of the real property, and defects in the real property. These limited duties are subordinate to any duties the real estate brokerage firm and the real estate brokerage firm's licensees owe to a client in the same transaction.

Resources

- [ND Administrative Rule 70-02-01-21 \(Responsibilities of Designated Broker\)](#)

Teams

The ND Real Estate Commission requires Company to "have a written policy that identifies and describes the team relationships in which its licensees may engage." This policy shall be effective for all Teams and Marketing Groups organized within the Company. Teams are allowed to be organized within Company in accordance with Agent's Independent Contractor Agreement and Company's Policies and Procedures Manual.

- The ND Real Estate Commission defines a team as, “a team is two or more licensees who work for the same brokerage under the supervision of the designated broker, who work together on real estate transaction to provide real estate brokerage services, represent themselves to the public as being part of a team, and are designated by a team name.”
- Team leads are required to notify the designated broker when any members are added or removed from the team roster.
- Teams must follow the ND Real Estate Commission advertising guidelines which require “the trade name (Real or Real Broker, LLC) must be equal to or greater than, in size and visibility, the name of any salesperson, associate broker, or team on the advertising”.
 - Team names must be approved by the designated broker.
 - Logos and advertising must be approved by the designated broker or their designee.
- Team leads are responsible for actions of their team members and should conduct regular training with their team members regarding MLS rules and regulations, state rules and statutes and the National Association of Realtors Code of Ethics. Proper documentation of dates and topics covered is expected of team leads.
- If a team lead is also designated a supervisor of a branch office location, that team lead may be responsible for licensed agents who are not members of their team. This will be determined by Company’s designated broker in accordance with state law and Company’s policies and procedures.
- The designated broker shall complete at least one audit of each team and/or branch office location annually to provide support and guidance to ensure teams and branch offices are in compliance with state laws and rules and Company’s policies and procedures.
- Neither team lead(s) nor any agents on the team may sign documents on behalf of Company or the designated broker unless authority is provided in writing by the respective person allowed to provide such authority.
- Team leads are encouraged to get their state broker license.

Resources

- [ND Administrative Rule 70-02-01-21](#) (Broker Responsibilities for Teams)
- [ND Administrative Rule 70-02-03-02.1](#) (Advertising)
- Refer to the Teams section of your Independent Contractor Agreement found under your profile in the Real app/reZEN

Advertising

The most important aspect of advertising as a licensed real estate agent in North Dakota, is disclosure of your brokerage. Any time you are discussing real estate, privately or publicly (including social media), you should always disclose that you are a licensed agent.

- All promotional materials need to be reviewed by the ND Broker prior to publishing. This is to ensure that Agent’s promotional materials are in compliance. Failure to comply may result in Agent having to reproduce materials at Agent’s expense.
- Any time a licensed agent promotes themselves or real property, they must include their brokerage in the promotion. This includes printed material, social media or in any other public venue.

- On social media, simply tagging the brokerage in the post will suffice.
- Any promotional materials a licensed agent, team or brokerage uses must include a way for the public to contact the Broker.
 - Providing a URL to your agent website or social media page suffices, as long as you have the Broker's contact information available on the page. It is a best practice to have the Broker's contact information provided along the bottom banner of your website or on your social media "About Me" section.
 - When including Company's ND Broker contact information, use ndbroker@therealbrokerage.com and/or 701-557-8215 (this number forwards to acting Broker's cell).
- An agent's license number must be displayed on their website OR displayed in an easy-to-see location in the office that the agent's license is assigned.
- **Effective January 1, 2023, the ND Real Estate Commission requires the size of the "trade name (Real) must be equal to or greater than, in size and visibility, the name of any salesperson, associate broker, or team on the advertising". This means, if you have a logo/brand, this needs to be developed to meet this requirement.**
- Following ND real estate advertising guidelines will also keep you in compliance with MN real estate advertising guidelines.
- You'll also need to familiarize yourself with [Real's Design Guide](#) to ensure proper fonts, colors and layouts are being used when developing your individualized brands.
- Note, that the Real logo (with R and L as a design and not letters) does not constitute the word "Real", so **cannot** be used to substitute the brokerage name to comply with the advertising guidelines.

Resources

- ND [Administrative Rule Title 70](#) (Real Estate Commission)
- [Article 70-02-03-02.1.2 Advertising](#)
- ND [Century Code Chapter 43-23-04](#) (State Real Estate Commission)

Earnest Money

Agent has a fiduciary duty to ensure that any funds provided to Agent in connection with a transaction are appropriately handled and tracked at all times throughout the transaction. The ND Real Estate Commission takes this very seriously, with our Trust Account (where only earnest money is held) being audited on a regular basis. Proper documentation is required for each and every transaction.

Options for holding earnest money:

- 1) **Funds Held at a Closing/Title Company - Company's Preferred Method**
 - a) Once a Purchase Agreement has been accepted, the buyer must provide earnest money to the appropriate closing/title company within the agreed upon timeline identified in the PA.
 - i) Make sure that the closing company knows to make a copy of the funds and provide a receipt signed and dated by the person receiving the funds. This document must be uploaded to the transaction's file in reZEN.

- b) Earnest money at closing:
 - i) At closing, the closing company must provide you an EM Disbursement Ledger (see examples in shared Google folder) indicating how the funds were applied to the transaction. **This is required by the ND Real Estate Commission.** This must be uploaded to the transaction's reZEN file.
- c) In the event of a canceled purchase agreement:
 - i) A Cancellation of Purchase Agreement form must be completed and signed indicating which party receives the earnest money. This document must be uploaded to the transaction's file in reZEN.
 - (1) The closing company will provide a check for the earnest money to the appropriate party.

2) Funds Held at the Other Party's Brokerage

- a) Once a Purchase Agreement has been accepted, the buyer must provide earnest money to the identified brokerage within the agreed upon timeline identified in the PA.
- b) In the event of a canceled purchase agreement:
 - i) A Cancellation of Purchase Agreement form must be completed and signed indicating which party receives the earnest money. This document must be uploaded to the transaction's file in reZEN.
 - (1) The responsible brokerage will provide a check for the earnest money to the appropriate party.

Resources

- ND [Century Code Chapter 43-23-14.1](#) (Handling of Funds by Brokers)
- ND [Administrative Rule Title 70](#) (Real Estate Commission)
 - Article [70-02-01-15](#) (Trust Account Requirements)
 - Article [70-02-03-12](#) (Refund of Purchaser's Money)

Transaction File Documents

The ND Real Estate Commission requires the following documents to be included in transaction files as part of their regular audits, so it is the Agent's responsibility to ensure they are uploaded into reZEN:

- Agency Disclosure
- Wire Fraud Disclosure
- Buyers Disclosure Form
- Listing Contract
 - Listing Extension Form(s) (if applicable)
- Buyer's Compensation Disclosure
- Buyer Representation Agreement
 - Appointed Agency Disclosure
 - Dual Agency Disclosure
- Fully Signed Purchase Agreement
 - CounterOffer Addendum (if applicable)
 - Addendums (if applicable)
- Earnest Money Deposit Receipt - regardless of where the funds are held
 - Earnest money disbursement ledger (if EM is held at a closing company)
- Property Condition Disclosure

- Lead Based Paint Disclosure (if built prior to 1979)
- Inspection Contingency Removal/Addendum (if applicable)
- Non-Representation Acknowledgement (if applicable)
- Closing Statement signed by Buyer or Seller

Furthermore, the Company requires the following documents be included in the transaction file to mitigate risk to agent(s), Broker, and Company:

- Pre-Approval Letter or Proof of Funds
- Selling/Buyer Disclosure Regarding Compensation
- Home Warranty Plan Invoice/Receipts (if applicable)

License Renewal & Continuing Education

Agents licensed in the state of North Dakota must renew their license by November 15th of the calendar year through the [ND Real Estate Commission Online Services portal](#).

North Dakota residents must complete their [annual continuing education requirements](#) prior to applying for the license renewal.

Non-North Dakota residents must be in compliance with their resident state's continuing education requirements and can apply for renewal any time prior to the November 15th deadline.

Agents who place their license in Inactive status must renew their license annually by November 15th, but do not have to complete the continuing education requirements. However, when the agent wishes to reactivate their license, they will be required to show completion of all continuing education requirements during the period in which their license was inactive. [Contact the ND Real Estate Commission](#) for additional information.

Resources

- [ND Administrative Rule Title 70-02-04](#) (Continuing Education)

Agent/Owner Transactions

As licensed real estate agents, there are additional responsibilities required when buying or selling personal property, regardless of if it's a home the agent has lived in or not. Additionally, it does not matter what percentage of ownership the agent has in the property. These requirements must be followed. **If you have a personal listing or buy, contact your broker to review what's required of you.**

Pursuant to Agent's Independent Contractor Agreement (ICA) with Company, Agent may have three Personal Deals per year in which Agent will be charged a \$280 fee (\$250 transaction fee + \$30 BEOP fee). It is considered a Personal Deal if Agent pays only the \$280 transaction fee to Real. If Agent pays the standard 15% Real split, the transaction does not count as a Personal Deal.

Entering a Personal Deal into the Real app:

Selling Property

- The listing contract needs to have an "Owner as agent" disclosure this is typically included under "Other terms" if not provided elsewhere.

- Both the public and private remarks in the MLS need to have an “Owner as agent” disclosure so that interested parties and their agents know immediately.
- Agent must use the same Seller Property Disclosure forms that any other seller uses. Agent CANNOT use an Alternative SPD form or waive disclosure. Licensed real estate agents are held to a higher standard than other sellers. And just as we advise our clients, be as thorough as possible in disclosing every detail you (or your property manager) know. This is to protect you through the transaction process and after.
 - Having a full home inspection completed prior to listing and providing that inspection report with the listing, is required by the Company. This helps alleviate any concern someone may have of the agent/seller not disclosing everything and may be a requirement of E&O insurance. As a seller, you are responsible to disclose everything that you have knowledge about, including what is discovered in a home inspection.
- When accepting a Purchase Agreement on the property, there needs to be a disclosure that “Seller is a licensed real estate agent” under “Other terms”. If not included on the PA, an amendment needs to be drafted and signed by all parties stating, “Seller is a licensed real estate agent”.
 - It is also advised to include “Seller is related to licensed real estate agent” if selling a property owned by a family member, business partner or soon to be family member.

Buying Property

- When submitting a Purchase Agreement on the property, there needs to be a disclosure that “Buyer is a licensed real estate agent” under “Other terms”. If not included on the PA, an amendment needs to be drafted and signed by all parties stating, “Buyer is a licensed real estate agent”.
 - It is also advised to include “Buyer is related to licensed real estate agent” if helping purchase a property that will be owned by a family member, business partner or soon to be family member.

Resources

- ND [Century Code Chapter 43-23](#) (State Real Estate Commission)
- ND [Administrative Rule Title 70](#) (Real Estate Commission)
 - Article [70-02-03-16](#) (Licensee acting in own behalf...)