

## **New Mexico Addendum to the Real Broker, LLC 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 a broker (“Broker”) affiliating with the company in the State of New Mexico. This Addendum supersedes all previous New Mexico 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.

All initially capitalized terms not defined herein shall have the meanings set forth in the Agreement, and all references in this Addendum to the Agreement shall be deemed to include reference to this Addendum and any other addenda attached to the Agreement, which are hereby incorporated by reference.

### **DESIGNATED MANAGING BROKER CONTACT INFORMATION**

Name: Cassandra Morrison

DMB License #: 18848

Company State License #: REC-2022-0164

Please contact through reZEN with questions.

Email: [NMbroker@therealbrokerage.com](mailto:NMbroker@therealbrokerage.com)

Please seek DMB guidance for local and team offices.

### **GENERAL SUPPORT:**

For all things marketing, operational, commissions, and internal, email: [support@therealbrokerage.com](mailto:support@therealbrokerage.com) and [nmbroker@therealbrokerage.com](mailto:nmbroker@therealbrokerage.com). Reach out ONLY once per issue, and a support ticket will be created. If you do not hear back within 2 business days or have an urgent matter, contact the DMB.

### **DEFINITIONS**

**CE** – Continuing Education

**DMB** – Designated Managing Broker

**ICA** – Independent Contractor Agreement

**MLS** – Multiple Listing Service

**NMGRT** – New Mexico Gross Receipts Tax

**NMREC** – New Mexico Real Estate Commission

**NAR** – National Association of Realtors

### **MEETINGS**

State Meetings are held every third Tuesday of the month at 10:00 am via Zoom,

unless otherwise notified. Broker is expected to keep sufficient attendance so that they are proficient in all areas of knowledge needed for performance of their duties as a Licensed NM Real Estate Broker.

Weekly Best Practice/Training/Forms meetings are held every Friday at 9:00 am via Zoom. These meetings cover Best Practice Methods and Contracts training; attendance is advised so that Broker can develop their business ability as required by NMREC.

Every Wednesday morning at 8:00 am the DMB will present “Getting It from The Pros” training via Zoom. This training is intended to assist the Broker in understanding what other professionals in our industry perform their functions in assisting the completion of a real estate transaction.

### **TRANSACTION BROKER/AGENCY**

By default, Broker will collaborate with their prospective customers/clients as a Transaction Broker. No Agency relationship can be established without the prior written consent of the DMB. Dual Agency and Designated Agency are expressly prohibited.

### **EARNEST MONEY**

Any Earnest Money will be held in the Title Company’s or Escrow Company’s Escrow Account. It is important that the Buyer and Seller to any transaction that includes the deposit of Earnest Money be notified of the New Mexico Title Act policy on the distribution of Earnest Money. This can be accomplished by presenting to the Buyer and Seller, NMAR Form 2310 – Earnest Money Dispute Information Sheet.

### **CONTINUING EDUCATION & LICENSE RENEWAL**

Broker must complete and must fulfill all the requirements with respect to Parts 11 & 13 of the NMREC Law & Rules (16.61.11 & 16.61.13) to renew their license. The obligation to renew on time is that of the individual Broker. A DMB must have oversight of all Brokers they Supervise, to make sure those obligations are fulfilled. This will be done by filling out the CE Tracking Sheet and CE Requirements Acknowledgment Sheet.

### **COMMISSIONS**

All Commissions/Compensation is subject to NMGRT. It is the Broker’s responsibility to ensure that the payee is aware of this requirement, in addition to verify the accuracy of the NMGRT amount. In the event the payee is not paying NMGRT on commission, Listing Broker will try to secure Seller’s tax-exempt certificate. Broker will also notify all cooperating brokers of any issue that may arise from this issue.

### **DOCUMENT EXECUTION AND DELIVERY**

All transactions shall be documented, and all agreements must be signed by all parties to the agreement. Except as otherwise provided by law, in all circumstances it shall be the responsibility of each Broker engaged in a transaction to assure that all parties to the transaction receive legible copies of all documents they have signed and any documents that

pertain to their respective interest in the transaction as soon as practicably possible, and copies of all fully executed documents thereafter.

### **MARKETING/ADVERTISING**

Broker must read, understand, and adhere to NMREC Advertising Rules, Part 32. All advertising of property or real estate services, including branding, must be approved by the DMB.

### **ERRORS AND OMISSIONS INSURANCE**

Broker shall have in effect a policy of E& O insurance.

- A. Supply a copy of current E&O insurance to the Brokerage and the NMREC.
- B. Shall supply a copy of renewal annually no later than December 31 of each year.
- C. Shall supply not less than \$100,000 coverage.
- D. Supply an aggregate limit of \$500,000.
- E. Brokers who do not obtain and keep an errors and omissions insurance policy as specified herein are guilty of violating NMSA 1978 Section 61-29-4.2 of the Real Estate License Law and are subject to license suspension and revocation as provided in Section 61-29-12 A (10).

### **FIRST YEAR BROKERS**

Per NMREC Law & Rules first year Brokers must attend either New Broker Business Practice or CCIM101. Company recommends that an Broker meet this requirement within their first three months of licensure. In addition, per NMREC Law & Rules Part 16(H) DMB must provide guidance to newly licensed Brokers throughout their first six transactions or more if deemed necessary by the DMB.

This guidance shall be provided through the Brokerage Mentorship Program. All newly licensed Brokers must enroll in the Mentorship Program during their onboarding process and remain in the program throughout their first six transactions.

### **HOMEOWNER OR GENERAL LIABILITY WHEN LISTING PROPERTY**

When listing property, it is important that the Broker verify that the property has some type of general liability insurance, such as Homeowners Insurance. It is Company policy that we obtain proof of the policy by requesting such evidence from the property owner, such as the declaration page. This is on all types of property.

If a property is uninsurable, notify the DMB prior to listing, to determine an appropriate action to reduce liability for the homeowner and the Company.

### **HOMEOWNERS ASSOCIATION (HOA) ACT**

If Broker is assisting a party either buy or sell a property located in a HOA, the following responsibilities must be followed:

Disclosure: Broker has a duty to inform Buyers and Sellers of the existence of a homeowner's association (HOA) governing the property in question. This disclosure must be made in writing (preferably with NMAR Forms 4600 & 4650) and occur prior to the execution of any agreements.

Obtaining Documents: Broker must make a good faith effort to obtain and provide to the Buyer, within a reasonable time frame, the HOA's governing documents. These documents include, but are not limited to, the declaration, bylaws, articles of incorporation, current budget, financial statements, and meeting minutes.

Reviewing Documents: While not legal advisors, Brokers are expected to familiarize themselves with the HOA's governing documents to identify any provisions that may significantly impact the Buyer or Seller. This includes issues like restrictive covenants, assessments, pending litigation, or special assessments.

Communication: Brokers must clearly communicate the information found in the HOA's governing documents to both the Buyer and Seller, highlighting any potential concerns or issues that may arise. This communication should be documented in writing.

Advising: Brokers should advise both the Buyer and Seller to seek legal counsel for a thorough review and explanation of the HOA's governing documents and their potential implications.

Non-Interference: Brokers must refrain from discouraging a Buyer or Seller from exercising their right to review the HOA's governing documents or to consult with legal counsel regarding these documents.

Compliance: Brokers must adhere to all applicable provisions of the New Mexico Homeowners Association Act, as well as any other relevant laws and regulations.

#### **PUBLIC IMPROVEMENT DISTRICTS (PID) ACT**

If Broker is assisting a party either buying or selling a property located in a PID, the following responsibilities must be followed:

Disclosure: Broker has a duty to inform Buyers and Sellers of the existence of a homeowner's association (PID) governing the property in question. This disclosure must be made in writing and occur prior to the execution of any agreements.

Obtaining Documents: Broker must make a good faith effort to obtain and provide to the Buyer, within a reasonable time frame, the PID's governing documents. These documents include, but are not limited to, the declaration, bylaws, current budget, financial statements.

Reviewing Documents: While not legal advisors, Brokers are expected to familiarize themselves with the PID's governing documents to identify any provisions that may significantly impact the Buyer or Seller.

Communication: Brokers must clearly communicate the information found in the PID's governing documents to both the Buyer and Seller, highlighting any potential concerns or issues that may arise. This communication should be documented in writing.

Advising: Brokers should advise both the Buyer and Seller to seek legal counsel for a thorough review and explanation of PID's governing documents and their potential implications.

Non-Interference: Brokers must refrain from discouraging a Buyer or Seller from exercising their right to review the PID's governing documents or to consult with legal counsel regarding these documents.

Compliance: Brokers must adhere to all applicable provisions of the New Mexico Public Improvement Districts Act, as well as any other relevant laws and regulations.

### **CO-LISTING**

Co-Listing with outside brokerages is prohibited, unless authorized by the DMB. Broker may only co-list with other Brokers with the Company. This allows for contract enforcement to be controlled through a single listing agreement. If a situation exists that co-listing can only be created with another brokerage, seek Designated Managing Broker approval. A listing amendment detailing the scope of duties to be shared between the Brokers involved must be signed by the Seller.

### **CO-MARKETING**

Co-Marketing with an outside brokerage is prohibited, unless authorized by the DMB. A co-marketing agreement should be used to address the details of the arrangement.

### **ALCOHOL AT OPEN HOUSES**

In accordance with New Mexico ATF regulations, alcohol at open houses is NOT allowed even with a licensed server. Anyone wishing to serve alcohol at such an event would have to hire a company with a dispenser's license, the dispenser would have to apply for a permit, and the dispenser would hire licensed servers.

### **RISK MANAGEMENT**

While this is not an all-inclusive list, it is important that we understand Risk Management is a legal and ethical responsibility of all Brokers. Risk Management is important to protect and promote the best interest of their Customer/Client, protecting the other party to the transaction and all licensees involved in any transaction. It is important to understand that there are many other people involved in the transaction and Risk Management serves to protect them as well.

- A. Resolve problems before they become a problem. Take ownership and find a solution.
- B. Do not be the expert know how to find the expert. Be the source of the source, not the source.
- C. Disclose the nature of your relationship with your Customer/Client. Help them understand that as a Transaction Broker, you cannot speak for, answer for, or make decisions for them.
- D. Document all verbal conversations, phone calls, email, text messages and voicemails. Remember that it does not exist, if it is not in writing.
- E. Stay informed of all Laws, Rules and Code of Ethics Changes and adhere to all of them.
- F. Stay educated and up to date on all aspects of your discipline in real estate.
- G. Encourage Sellers to fill out supplied written Sellers Disclosure(s). Disclose their legal obligation, as well as your obligation to show all adverse material facts actually known about property or the transaction.

- H. Encourage Buyer to get inspection. Disclose that it is their obligation to do their own Due-Diligence.
- I. When showing third party information, show the source. Stick to the facts.

### **SAFETY**

NAR Safety Guidelines: Brokers are put in a unique position that most other industries are not. We must protect the interest of Buyer and Seller, while safeguarding ourselves. With that, Company has adopted the Safety Guidelines of the NAR, which can be found at; [www.nar.realtor/safety](http://www.nar.realtor/safety). Brokers must review these guidelines and protect all parties. Many videos on safety can be found here:

[https://www.youtube.com/results?search\\_query=realtor+safety](https://www.youtube.com/results?search_query=realtor+safety)

State Training: Brokers are encouraged to attend Safety Training with the local associations and/or training provided by the DMB. The DMB will provide Safety Training four times per year.

### **SELLER FINANCING**

Broker must adhere to the following policy as it pertains to Seller Financing Transactions: Due to the significant legal issues surrounding Seller Financing Transactions, Broker must attend a Seller Finance class before working on such a transaction. This can either be a CE class presented by an Escrow Company or internal training by the DMB.

When entering a Seller Financing Transactions NMAR Form 2402 (Real Estate Contract Addendum) must be used. Broker will be required to read and have a full understanding of NMAR Form 2402. This requirement is to ensure that Broker can give a full explanation of the document to the party they are working with.

Special attention should be given to the Sellers ability to sell and the Buyers ability to buy. Therefore, it is imperative that a Buyer provide a Seller evidence of their ability to fulfill their obligations to the contract. As well as disclosure of any liens or judgements the Seller may have, by reviewing a title commitment.

In any Seller Financing Transaction, Broker has a legal obligation to recommend that the customer/client seek legal counsel before entering into such a contract. Company also requires the use of a Title Company for title insurance, as well as an Escrow Company for Seller Financing Transactions. Licensees are prohibited from working Seller Financing Transactions if the parties are not in agreement to use a Title Company and Escrow Company.

Full disclosure to both parties of the legal nature of a Seller Financing Transaction must be documented. All recommendations, conversations and communications must be documented throughout the transaction. Broker will also notify the DMB prior to entering any Seller Financing Transaction. It is imperative that we can document Broker's competence level for such a transaction.

### **SEPTIC SYSTEMS**

Brokerage Policy: If Broker is working with a Buyer or Seller on a property with a liquid waste management system (Septic), Broker has an affirmative obligation to understand the New Mexico Environment Department (NMED) policies and rules.

Disclosure: Broker must disclose to both the Buyer and Seller if the property utilizes a septic system for wastewater treatment. This disclosure must be made in writing, using NMAR Form 2308 – Septic Information Sheet, prior to the execution of any agreements.

Inspection: Broker is required to advise both the Buyer and Seller of their legal obligations to obtain a professional inspection of the septic system. This inspection should be conducted by a licensed professional and include an assessment of the system's functionality and compliance with NMED regulations.

Permits and Records: Broker must make a good faith effort to obtain and provide the Buyer any available records related to the septic system, such as permits, maintenance records, and inspection reports.

Compliance: Broker should advise both the Buyer and Seller of their respective responsibilities for ensuring the septic system's compliance with NMED regulations. This includes proper maintenance, repairs, and upgrades as needed

Non-Interference: Broker must refrain from discouraging a Buyer or Seller from exercising their right to obtain a professional inspection of the septic system or to seek further information from NMED.

### **LOCAL REAL ESTATE ASSOCIATIONS**

Billing: Company and Broker must be members of the Local Real Estate Association. Company recognizes and adopts all Local Real Estate Association rules, regulations, and compliance requirements.

Billing and Collection Policy for Annual and Penalty Fees issued by Local Real Estate Association to Broker.

- Invoices for annual fees shall be payable as required by the Local Real Estate Association.
- If accounts or penalties are not paid and are subject to a late fee, the Participant and/or Subscriber will be notified by the Local Real Estate Association and given time to cure delinquency.
- If accounts or penalties are not paid by the participant, they will be suspended and terminated. Brokers who have outstanding fees, including unpaid penalties, are liable.
- Company reserves the right to collect any outstanding fees and/or penalties due, including but not limited to Local Real Estate Association fines, QB class costs for AB fines etc. from commissions collected.

Waiver from MLS: A Service Participant may request a voluntary waiver for a subscriber under the following criteria:

- Illness-long term duration
- Out of area Exclusive tract sales Broker.
- The subscriber is engaged solely and exclusively in a specialty of real estate business separately and apart from listing or selling or leasing or

appraising the type of properties which are needed to be electronically filed with the Service.

Waiver requests must be made in writing to the Service by the Participant to be considered by the Board of Directors of the Service or their designer. The Participant and Subscriber(s) may appeal decisions about denial of waiver to the Executive Committee of the service.

To find your Local Real Estate Association and contact information, please go to this link: <https://nmrealtor.com/local-member-boardsassociations/>

### **SOCIAL MEDIA**

This Social Media Marketing Policy outlines the guidelines and expectations for Brokers when using social media platforms for marketing and communication. It ensures that all online interactions adhere to ethical standards, legal requirements, and promote a positive professional image.

- A. Professional Conduct: Brokers are expected to maintain a high level of professionalism on social media platforms. This includes respectful communication, refraining from engaging in personal attacks, offensive language, or any behavior that could damage the reputation of the individual or the brokerage.
- B. Accurate Representation: All information shared on social media platforms must be accurate, current, and reflective of a property's true attributes and a clear picture of services provided. Misrepresentation or exaggeration of property features, pricing, or other details is strictly prohibited.
- C. Client Confidentiality: Broker must uphold the confidentiality of client information and details related to transactions. Sharing sensitive client information or transaction specifics on social media is not allowed without explicit consent from the client.
- D. Fair Housing Compliance: Broker must comply with fair housing laws and regulations in all social media posts and interactions. Avoid any content that could be interpreted as discriminatory, biased, or exclusionary.
- E. Compliance with Code of Ethics and License Law: Social media interactions should align with the Realtor® Code of Ethics and all relevant license laws. Broker must demonstrate honesty, integrity, and transparency in all online communications.
- F. Personal and Professional Separation: While Brokers are encouraged to showcase their personality and interests, it's important to maintain a clear distinction between personal and professional content. Avoid sharing personal opinions, political views, or controversial content that might negatively impact the brokerage's reputation.
- G. Respect Copyright and Intellectual Property: Broker must respect copyright and intellectual property rights when sharing content on social media. Always give proper credit to the original source of any content shared and avoid using copyrighted material without permission.
- H. Monitoring and Moderation: All content as it pertains to marketing property and real estate services, must be approved by the DMB.



- I. Consequences of Non-Compliance: Failure to adhere to this policy may result in disciplinary actions, which could include counseling, training, or, in serious cases, termination of Broker's association with Company.

### **TAX LEVY DISCLOSURE ACT**

If Broker is assisting a party with either buying or selling a residential improved property, Broker is obligated to assist the parties in adhering to the Tax Levy Disclosure Act. Broker is required to have a firm understanding of the Act and provide parties with written disclosure of their legal rights and obligations, by providing them with NMAR Form 3275 – Tax Levy Disclosure.

### **TEAMS**

If a Team wishes to use their building address and phone number, it will need to be registered with the commission, as well as having a separate Qualifying Broker License number. The Team will be responsible for the cost of creation or activation of the Qualifying Broker's license number for their location, as well as the cost of renewal of said license.

- Costs associated with creating and transferring teams with the NMREC are \$20 per license up to \$200.
- The cost associated with the renewal of the Qualifying Broker license is \$270 every three-year cycle.
- All costs associated with creating, maintaining and annual renewal of Office, Participant and Team User ID, shall be those of the Team.
- All Team licenses shall be maintained as a copy or digital picture frame at the Team's location, in accordance with NMREC Law & Rules. Cost associated with transfer and renewal of the Team's license(s) shall be that of the Team.
- All advertising for real estate and real estate services (Team and Individual Branding) shall include Company name and phone number as registered with the commission.
- All local NAR Associations and/or MLS Boards the Team joins shall be first listed as REAL Broker (QB as the participant).

### **UNLICENSED ASSISTANTS & TRANSACTION COORDINATORS**

See part 20 & 21 of the NMREC Law & Rules. No Transaction Coordinator or Unlicensed Assistant can be hired without prior written approval from the DMB and all necessary Company paperwork associated therewith must be completed.

A Transaction Coordinator Agreement must be provided to your DMB. You must have a written agreement between your Designated Managing Broker and the Transaction Coordinators Designated Managing Broker. You must also have a written agreement between yourself and the Transaction Broker. Company requires the use of NMAR form 1700 for hiring a Licensed Transaction Coordinator. Licensed assistants may only aid other Company Brokers and may not work for or with any brokers outside of the Company. Any licensed assistants or transaction coordinators must have their license affiliated with the Company.

### **VENDORS**

In accordance with NMREC Law & Rules as well as Construction Industries Division Standards, all Vendors must be certified, licensed, insured, and/or bonded as (and only if) required by local,

state and/or federal law (including Certified Renovators under the Lead-Based Paint Renovation, Repair and Painting rule). See NMAR Form 6107 – Vendor Certification when making any referrals for vendors. Refer to: [http://www.rld.state.nm.us/boards/Look\\_Up\\_A\\_License.aspx](http://www.rld.state.nm.us/boards/Look_Up_A_License.aspx) to look up a vendor license.

**HELPFUL LINKS/RESOURCES**

NMREC Laws & Rules located Here: [New Mexico Real Estate Commission Laws & Rules](#)