



Fathom Policy & Procedures Manual

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Section 1:
How to Use Your Manual Effectively**1.1 About this manual**

Welcome to Fathom Realty! We would like to invite you to read and become familiar with the contents of this policy manual and employee handbook. The information presented in this handbook covers company policies, benefits, and procedures that will guide and assist you in performing your duties. Our goal in creating this handbook is to equip you to perform to the best of your ability and help you realize your potential as one of our valued team members.

The policies, procedures, and programs outlined in this handbook are designed to serve as guidelines for company policies, benefits and activities. They are not intended to create a contractual relationship and are subject to change at Fathom Realty's discretion, with or without notice. While the policies and procedures outlined in this manual should answer most of the general questions you have about your job or the company's programs, it cannot cover every situation that might arise. If you have questions about these guidelines, or need further information on anything related to your job, please consult with your local leadership team.

Please read this handbook carefully and refer to it frequently. We encourage you to familiarize yourself with its contents as soon as possible because it is important that you are fully informed and understand our policies and procedures completely.

Once again, we welcome you to Fathom Realty and we wish you much success in your new position.

Section 2:**The Fathom Realty Story, Mission Statement & Our Brand****2.1 The Fathom Realty Story**

In 2007, the real estate market was experiencing a massive economic downturn; real estate agents were seeing fewer sales at lower prices and as a result, many agents were forced out of the industry while the others realized a smaller income potential. The downturn exposed needs that the industry has been slow to address. With those needs in mind, Josh Harley launched Fathom Realty in January 2008 and set the stage to usher in the future of real estate.

Fathom Realty was inspired from the following truths: no matter what they claim, the large established brokerages do not generate real estate leads for their agents; a client chooses their real estate agent because of who they are, not who they work for; if an agent reduces their overhead, they will have more money to invest in their business and family; a beautiful office is overhead that does not generate income; technology is constantly becoming better, cheaper and more accessible to agents; 100% of nothing is still nothing, a brokerage must offer more than just 100% commission to their agents; brokerages can still offer tremendous value to agents but that value is not worth what it used to be; too many industry leaders have used agents to improve their position instead of using their position to improve their agents. Fathom Realty leverages innovation and cutting-edge technology to profitably offer a 100% commission-based model to our agents along with the highest level of support, training, and sense of community through servant leadership.

The word Fathom means, “to come to understand”. Fathom Realty’s goal is to ignite a paradigm shift within the real estate industry and is poised to be the catalyst which ignites the long overdue shift from a brokerage-centric industry to one that is client and agent-centric.

2.2 Mission Statement

Fathom Realty was built on biblical principals and exists to serve our agents and clients through unparalleled support, superior innovation, and next generation technology. With servant’s hearts, we believe in giving 100% to our agents and achieving 100% satisfaction from our clients.

2.3 The Fathom Culture

Fathom’s values can be summed up in 3 letters: HIS

HELP: To improve the communities we live in.

INNOVATE: To meet the evolving needs of our associates and clients.

SERVE: Our people always, expecting nothing in return.

2.4 The Fathom Brand

Licensed agents under Fathom Realty have a limited license to use the Fathom Realty service mark on his/her marketing materials, yards signs, business cards, letterhead and other business forms. Our policy is that agents shall obtain the prior approval by Broker and Fathom Realty regarding such use of the Fathom Realty service mark.

Brands are personalities, but they aren't created... they are built. As Fathom Realty grows, it is essential that the company maintain a consistent brand identity across the United States. Our goal is to establish a uniform "look and feel" by defining brand standards.

1. Learn to love the logo – it's the only one we've got. Don't add things to it, take things from it, or stretch it out of proportion. Several variations of the full corporate logo in both horizontal and vertical orientations are available for your use and accessible for download on the Fathom Wiki. The Fathom Realty logo as shown below will appear on all items as they are produced, such as:

- Signs
- Business cards
- Products
- Stationary
- Brochures
- Newsletters
- Websites
- Advertisements
- Billboards
- Social media business pages/sites
- Agent websites
- Online banners/ads
- All other marketing created for the purpose of promoting the Fathom Realty agent as a real estate agent/broker/salesperson OR for the purpose of marketing properties listed by Fathom Realty.

2. Color Settings

When recreating the red and gray color for the Fathom Realty logo, below are the correct settings:

RED

CMYK for Print: C=0, M=100, Y=100, K=15

RGB for Web and Print: R=196, G=0, B=0

HTML Color Code for Web: #c40000

GRAY

CMYK for Print: C=0, M=0, Y=0, K=85

RGB for Web and Print: R=38, G=38, B=38

HTML Color Code for Web: #262626

3. The Fathom Realty on Signs

Any successful listing agent will tell you, listings produce more listings and your yard sign plays a big part in that generating force as well as in establishing your brand. It's your first impression for other potential home sellers in the neighborhood. The Fathom Realty policy is that 20% of the sign must be Fathom Red or Fathom Red Gradient and that the Fathom Logo must be no smaller than 3" x 11.5" on the horizontal logo and 6" x 8" on the vertical logo. While we strive to maintain consistency in the brand, the intent is not to be too restrictive. We have developed a set of sign templates to balance individual branding without compromising the Fathom corporate brand. You can find those on the Fathom Wiki.

4. The Fathom Realty logo on billboards, banners, and larger signs.

The portion of the logo must equate to the proportion that it is on a standard 18" x 24" yard sign. As stated above, the minimum sizing of the Fathom logo on a yard sign as: 3" x 11.5" with the horizontal logo and 6" x 8" with the vertical logo. This would mean that the logo on an 18' x 24' billboard would need to be 3' x 11.5' for the horizontal logo or 6' x 8' when using the vertical logo. Equivalent conversions would apply to any large advertising materials/signage generated by the Fathom Agent.

5. State/City/Area/Neighborhood requirements. Some state real estate commissions have very specific requirements for what information must be clearly displayed on all real estate advertising/signs. For example, some states require that the Broker's contact information be included on all yard signs. Further, specific towns/cities/neighborhoods have sign stipulations regarding content, look and feel, and size limitations. While Fathom Realty has designed templates to be both visually attractive and accommodate a broad variety of known requirements, it is the Agent's responsibility to ensure that signs are in compliance with all Firm, MLS, Commission, State, city/area, and HOA/neighborhood requirements. We have provided all logos, branding materials on the Fathom Wiki to ensure that your sign company can create custom signs that will comply with all requirements. Please ensure that you review all requirements prior to having your real estate signs made.

Section 3:

Policies and Guidelines for Regions & Districts

3.1 Company Structure

Fathom Realty prides itself on offering career paths for agents who are interested in serving in leadership positions within the company. The company is comprised of numerous regions and districts across the United State. Each region is led by a Regional Director and District Directors oversee groups of agents in territories that are comprised of a MLS area or in some markets, multiple MLS areas.

Fathom Realty Organizational Chart (*forthcoming...*)

3.1.1 Teams

Fathom Realty encourages agents to form teams. One agent will serve as the Team Leader. The maximum allowable team size is 6 agents. Requests for larger teams must be reviewed and approved on a case-by-case basis.

3.2 Company Agency Policy

Issues involving agency relationships are governed by different state laws and each Market Center must remain in compliance with the laws of its state. Our firm's policy is for agents to disclose agency at the time of first substantial contact with a customer. Each Market Center will have its own written agency guidelines and/or follow those written guidelines which may be available through its state or local Association/Board of REALTORS®. As state laws governing agency change, each Market Center shall amend their existing policy to comply with the new law(s).

Fathom Realty subscribes to the principles and standards expressed in the National Association of Realtors (NAR) Code of Ethics regarding the treatment and service provided to our clients, customers, and the public.

Local leadership will establish agency policies specific to their office, but Fathom Realty agents will be permitted to operate in the capacity of Seller Agency, Buyer Agency, and Disclosed Dual (Designated Dual) Agency.

Prior to listing a home for sale, listing a buyer through a buyer representation agreement or working with a consumer in the transaction on a specific property, the agent must disclose to the party the company's agency policy and how that policy will affect the parties to the transaction. In certain states, disclosed agency must be made in writing prior to the submission of a written offer.

3.3 Company Policy on Dual Agency

Fathom Realty and its agents act as agents or subagents of the seller and, as such, will usually treat buyers as customers. However, should the buyer fall into any of the categories listed below, Fathom Realty and its agents shall act as the buyer's agent. Further, should such a buyer client purchase a company listing, Fathom Realty and its agents shall be dual agents representing both the seller and buyer. Thus, either seller or buyer may be either a Client or a Customer as determined by this policy.

Criteria for Determining Buyer Status

Buyer Client is one of the following: Self, Buyer who wants anonymity, Relative, Close Friend, Business associate/partner, or Buyer who wants representation.

Buyer Customer is any buyer not on list above, an open house attendee, or a telephone contact, or internet lead.

Summary of Real Estate Agent's Duties to a Client (Principal) Under Real Estate License Law & Commission Rules. While these duties may vary slightly from state-to-state, the standard of duty for all Fathom agents include the following:

- a) Duty to avoid any willful or negligent misrepresentation or omission of a material fact to a principal (or any other party to a transaction). This includes a duty to disclose all material facts about which the real estate agent has knowledge or should reasonably have acquired knowledge.
- b) Duty to avoid making false promises that are of a character likely to influence, induce or persuade a party to a transaction.
- c) Duty to avoid any undisclosed conflict of interest.
- d) Duty to properly account for funds held in trust for the principal.
- e) Duty to act competently in the performance of services.
- f) Duty to avoid improper conduct and to be honest in all dealings with the parties.
- g) Duty to promptly deliver all offers and contracts to a party to the transaction.
- h) Duty to disclose to the principal any commissions, referral fees, kickbacks and similar payments from third parties.

Summary of Agent Duties to a Customer (non-client) Under Real Estate License Law & Commission Rules:

- a) In any real estate transaction the real estate agent has the duty to apply "honesty and fairness". Under common law the real estate agent is required to refrain from unfair and deceptive trade practices and not misrepresent or fail to disclose a material fact as prohibited by the North Carolina Real Estate License Law.
- b) Facts that a Fathom Realty agent must disclose to customers/third parties are defined as follows -
 - 1. Facts directly related to the property - things which may have an impact to the value of the property.
 - 2. Facts related to the client's ability to complete the transaction.
 - 3. Anything of special importance to a party.

State laws may vary, but Fathom's description of agent duties should be used as a minimum standard for all Fathom Realty agents. Please refer to the Market Center Dual Agency Policy for specifics on when and what type of Dual Agency is allowed and whether it requires the Managing Broker's approval. As a company policy, Fathom Realty Agents are not allowed to represent both sides in any commercial transactions – sales or leases.

In some states, agents may NOT serve in the capacity of Dual Agent (representing both the buyer and seller) in which the agent has a personal interest in the property (as the seller). In all instances of potential conflict between Fathom policy and state laws, state law supercede.

3.4 Listings – Obtaining & Servicing

3.4.1 Brokerage Commissions & Anti-Trust Policy

When discussing Brokerage Commissions with the public you are quoting the Company commission only. The commission rate for the sale, rental, or management of real property shall be determined between each individual broker, agent and their client, not by the Board of REALTORS® or a predetermined fee set by a group of real estate brokers.

Anti-Trust Policy: There is never to be any discussion with a cooperating broker or sales associate or the general public, regarding commission rates, pricing structures, marketing practices or the fee structure or business practices of a competitor. The only fee that you may quote to a consumer is the fee that you, as the independent agent determine the company should charge on that transaction. If a consumer asks if this is the "normal" fee, inform the consumer that there is not a "normal" fee. The fee is based upon the services that the company provides. Give the list of those services to the consumer, be it buyer or seller, in order to explain the company policy on fees. If the consumer asks you to comment on another company's fee policy, you MUST state that you have no information on any other company's fee structure and that you can only discuss your company's fee. Avoid discussion with employees and Sales Associates of competing firms regarding the commission policy of the Company that could be construed to be agreements or conspiracies to fix, establish prices, or otherwise retrain competition in violation of state and federal anti-trust laws. If you find yourself engaged in such a conversation excuse yourself immediately and report the incident to the Broker.

Commissions are set by the independent contract agent on a transaction-by-transaction basis. Individual agents will determine commissions for all residential and commercial listings, purchases, and leases.

In the event you need to lower the commission or renegotiate a commission after the sales is in process, the authority is delegated to the individual agent. You, the Agent, are responsible to pay all fees in full as set forth in the Schedule A (to the Agent Agreement) even if you elect to discount the fees collected from a client/customer for a limited service listing or offer otherwise agreed upon discounts to the client/customer.

3.4.2 Types of Listings

Exclusive Right to Sell

1. This is the full right to represent the owner in any sale of the property and is the type of listing that the company prefers.
2. There is a standard listing agreement form that is to be signed by the sellers (all owners of record must sign). Be sure to check with the recorder or title company to assure yourself that all of the title holders have signed the listing as the sellers. The absence of even one of the owners could invalidate the listing agreement. We strongly recommend a minimum listing term of 90 days, 180 days is preferred.

Non-Exclusive Agency Listing

1. This type of listing is not recommended. (Seller has right to sell property with no commission paid.) This type of listing cannot be taken without the written consent of the Broker/Manager.
2. A Broker-to-Broker (One-Time Showing) Agreement is used when an unrepresented seller (FSBO) or the Buyer client agrees to pay a sales commission to the agent.

3.4.3 Listing Agreement-Form and Information

- a) The listing associate is to secure all information and prepare the Multiple Listing Service (MLS) listing form. MLS requires that all information furnished be complete and accurate. As the person providing information to the MLS, you are therefore responsible for the accuracy and completeness of the information. It is imperative to pay attention to the taxes, special assessments and pending special assessments, as they are critical. Flood plain or flood plain fringe area and zoning information should be noted if applicable. All information must be updated when renewing a listing or as new information becomes available. Inaccuracy in information provided and any penalty charged for misinformation or timeliness of the submission to the MLS shall be the exclusive responsibility of the listing associate.
- b) Personal property is an important part of a sale. A clearly written list of what is to convey with the sale helps eliminate disputes.

Example: water softeners, mirrors, gas lights, barbeque grill, propane tanks (rented or owned), or anything the owner is not leaving that may be thought normally included should

be listed as reserved items and be indicated as such on all advertisements and MLS data information sources.

- c) Review the listing data for accuracy after it has been uploaded to the MLS. Any errors should be immediately corrected to ensure accurate information is made available to prospective buyers and agents.
- d) Possession date and terms are to be specified.
- e) In cases involving Power(s) of Attorney, obtain a copy to ensure the validity and expiration dates.
- f) When taking a listing make sure you have completed all of the necessary paperwork required for the file per the real estate commission. Including but not limited to: Information About Brokerage Services, Listing Agreement, Sellers Disclosure, and other pertinent Addenda.
- g) The Seller's Property Disclosure Form must be completed by the sellers in their own hand. Review the form with the Seller to make sure that all of the blanks have been filled in. If the property is subject to an exception to the Disclosure Statement, such as an estate, foreclosure, or new home construction, then indicate that on the form and get the seller's signature. Any changes to the property that would cause a necessary change to the already completed form must be done immediately by completing a new Seller's Property Disclosure Form. Upload the form onto the MLS so that it can be accessed by those agents showing the property.
- h) The US Department of HUD requires that every seller of residential property built prior to 1978 disclose to the potential buyer/tenant the possibility for or the existence of lead based paint on the property. If the property being listed was built prior to 1978 make sure that the Lead-Based Paint Disclosure form is completed as instructed with the seller's signature and initial. Check marks are not acceptable.
- i) In accordance with the NAR Code of Ethics, the amount of compensation being paid to the co-operating brokerage company who is acting in the capacity of a buyer's agent (or transaction broker) shall be disclosed in writing on the listing agreement or addendum to the agreement. Non-MLS agent compensation must be fully disclosed in writing as well.

3.4.4 Exceptions of Listing Agreement

The owner may claim an unspecified number of his prospects as reserved buyers to the agreement. It is the policy of the Company that exceptions may be for a maximum of 30 days. Write the names of the exception buyers on a separate page attached to the listing agreement. The exception prospect time period must have a specific deadline date.

3.4.5 Length of Listing Agreement

It is preferred by the Company that listing agreements be for a minimum period of 180 + days, however, not less than 60 days. Make every effort to obtain a listing of this length, thereby increasing your opportunity to sell the property.

Prior to the expiration of the listing agreement, the seller shall be given a list of the prospects (name and address) that were shown and interested in the property. The seller shall be made aware that if any of the prospects purchase the property directly from the seller, that the fee will be considered to be earned and will be due upon closing of the property. The list shall be sent via mail or email with a receipt kept in the file. The protection period for the prospects is recommended to be 90 days.

3.4.6 The Listing Contract with the Owner

- a) Fully explain the terms of the listing agreement to all owners. Make certain it is understood.
- b) The owner/s and you, as a representative of the Company, sign the listing agreement. Any change of the agreement is to be initialed by the owner, the agent, and uploaded to the Broker. The owners are given one copy along with a copy of all paperwork provided to the seller at the time of the listing, such as the Seller's Property Disclosure and Lead Based Paint form (if applicable).
- c) If the seller is paying a bonus, the specific conditions for earning the bonus must be made in writing on the listing contract or addendum to the listing agreement.
- d) In accordance with state laws, written listing agreements must be signed by all sellers. In addition, this company desires that listing agreements be enforceable in every possible situation to ensure that the company and agent will be paid under the terms of the listing agreement. Because of these factors, agents must secure listing agreements with the proper signatures before the listing will be promoted or advertised in any way. Agents should be especially aware in the several situations below.

SPOUSAL SIGNATURES: A spouse must ALWAYS sign a listing agreement unless certain conditions exist, as follows:

1. A waiver of marital rights given by the nonsigning spouse exists and a copy is provided to this company.
2. A quitclaim deed made to the signing spouse has been executed and recorded by the spouse not signing and a copy is provided to this company,
3. A prenuptial agreement waiving the nonsigning spouse's rights exists, a copy of the prenuptial agreement has been given to this company and legal counsel for the company has consulted with a title company to determine the validity of the prenuptial agreement.

Most often, these questions come up when the property is titled only in the "selling" spouse's name and the "nonselling" spouse claims that he/she has no interest in the property. Typical situations are a widowed person who has remarried or a divorced person who has remarried. The spouse not on the title may or may not have a marital interest according to state law. If they

do have a marital interest they should sign the listing agreement unless one of the three exceptions noted above exists.

PROPERTY IN ESTATE: When property is in an estate, ALL heirs AND spouses must sign. If a Personal Representative (Executor) has been named, it is possible that the Personal Representative has authority to sell the property. The agent must secure a copy of the part of the will or court decree that empowers the Personal Representative to sell property. The power of sale granted the Personal Representative by a will may not be acceptable to a title company until the time to file a will contest has expired, which is six months after the first publication of notice of Letters of Administration being issued. Management or legal counsel of this company will consult with a title company to determine if the power to sell in the will is acceptable.

TRUSTEES: If a property is held by a trust, the trustee will normally be empowered to sell. However, the agent must secure a copy of the part of the trust which empowers the trustee to sell because some trusts require the signatures of more than one trustee to sell as in the case of an individual and corporate trustee (bank). The trustee's spouse does not sign the listing agreement because the trustee is acting in a representative capacity.

SELLER INCAPACITATED: If a seller is a minor or not mentally competent to sell, a guardian must be appointed by the Probate Court and the guardian must obtain a court order to sell the property. Until such time, the property cannot be sold even if a child, sister, niece, nephew, etc. is also on the title. Also, if a property is jointly owned in this fashion, the spouse of the "second signer" (child, sister, niece, nephew, etc.) must also sign the listing contract. It is possible that a properly drawn Durable Power of Attorney may provide a means to sell this type of property. However, before relying on the Durable Power of Attorney, a title company should be consulted to determine whether the company will insure the title based on the existing Durable Power of Attorney. Also, refer to the paragraph on Powers of Attorney, below.

DIVORCES: A person is NOT legally divorced until a court so orders. A person "in the process of divorce" cannot sign the listing agreement alone. The spouse must also sign, regardless of whether the spouse is living on the premises or the couple has a "legal separation." Once divorced, the person may sign alone. However, if the county records continue to show the property in both names, the agent must secure a copy of that part of the divorce decree which awards the property to the signing spouse for this company's files.

POWERSOFATTORNEY: A PowerofAttorney is acceptable for signature on a listing contract. However, not all powers-of-attorney authorize the sale of real estate. A copy authorizing the sale of real estate must be secured for the files of this company.

3.4.7 Accuracy of Listing Information

Several "traps" of liability exist in taking a listing. These are covered below. Each agent should take careful note of these hazard areas and be particularly diligent in handling these issues.

a. **ROOM COUNTS:** Agents must be careful to accurately represent the number of rooms, bedrooms and bathrooms in a property. Generally, questions of whether an area constitutes a room, bedroom or bathroom are resolved by determining whether an appraiser would count

the area as such. For example, basement rooms that are below grade are not generally considered rooms, bedrooms or bathrooms for appraisal purposes. Another example is that a room normally must have a closet to be considered a bedroom. Also, "walk-through" rooms are not usually considered separate bedrooms. These ambiguous areas can be denoted by a symbol such as a "+" sign after the room count (e.g. 8+ rooms, 4+ bedrooms) or highlighted in remarks for the property or other descriptive information.

b. **ROOM SIZES:** An agent will provide square footage estimates in accordance with local policy. Square footage quotes, if inaccurate, can be extremely dangerous for the agent and the company.

c. **LOT SIZE:** Lot size and acreage should only be determined from an accurate survey, the owner's real estate tax bill or the county tax records. The agent should NOT attempt to measure lot size on her/his own.

d. **TAXES:** Taxes should be determined from county tax records or the owner's tax bill, with the stipulation that reassessment may increase taxes. The agent should not rely on the statements of the owner as to tax amounts.

e. **MODERNIZATION INFORMATION:** Often, good selling features about a property are the updates or upgrades made by the owner. In order to accurately advertise these items, this company requires that the owner verify any information given to us before it can be used in any promotional material on the listing.

Items such as "new" roof, "new" air conditioner, "new" furnace, "new" bathroom, "new" kitchen, etc. are misnomers because of the difficulty in defining what "new" means. Substantiation of the information means the owner must supply this company with receipts, canceled checks or other proof of payment of upgraded or rehabbed items. Once provided, then this company will accurately advertise and promote these good selling features with language like "New roof, 1999", "New furnace, 2000", "Kitchen remodeled, 1991". If it is not possible to substantiate modernized features, they can be advertised or promoted as "Newer" or "Recent", as in "Newer furnace" or "Recently remodeled bathroom".

3.4.8 Seller Net Proceeds Calculations

It is the policy of this company to calculate estimated net proceeds for sellers as often as appropriate. The first estimate should be given on the listing call or as soon as possible after listing the property. Even though some information may not be available, such as exact loan balances or prepayment penalties, the agent should use all existing information to prepare as accurate an estimate as possible and note any missing information.

When information becomes available, estimated net proceeds should be recalculated. This is particularly appropriate when an offer is presented and when each new offer or counteroffer is received.

Many reasons exist for using seller net calculations. First, it is an important service to a client. Secondly, it is important for this company to know whether it is likely that there are sufficient proceeds to pay off the indebtedness on the property and the real estate commission. Finally,

the company must know whether the seller of the property can deliver marketable title. If the indebtedness exceeds the listed price, immediate discussions must occur with the seller and the lenders to determine whether the property can be sold with clear title given the level of indebtedness.

Note also that, as a possible material limitation on the client's ability to perform the transaction, this condition may be considered an adverse material fact to be disclosed to the customer.

Estimated Seller Net Proceeds Calculation forms are available in Zip Forms and/or on the MLS platform.

3.4.9 Cancellation or Withdrawal of Listing

- a) A cancellation or withdrawal, when approved by the Company management shall terminate a listing as of a certain date or in the case of a withdrawal, it shall be withdrawn from the MLS but still be an active listing until cancelled or expired. Prospects who have seen the property, according to the terms of the listing agreement, remain our prospects. With this exception, the owner is otherwise free to dispose of the property in any manner following an approved cancellation.
 - 1. A cancellation or withdrawal of a listing from MLS, may be performed by the agent, but the Broker must be informed and the transaction cancelled and filed with the transaction in the transaction management portal.
 - 2. The agent and owner are to be notified in writing of the agreement to cancel the listing agreement. Upload the written request to the file. You should furnish the owner with a list of your prospects in writing prior to the cancellation.
 - 3. The listing agent releases all future rights to the property in that the property may be re-listed by any associate. The original listing agent can reinstate their rights by relisting the property.

3.4.10 Office Procedure - New Listings

- a) Agents will create a new transaction and upload all documents within 48 hours of signing an agency agreement with a client. Agents are expected to ensure that documents, dates, and all information related to the transaction are kept up to date throughout the course of the transaction.
- b) The listing forms are to be properly and totally completed on every exclusive listing and are to be submitted to the MLS **and** uploaded to the Broker transaction management system within 48 hours of execution.
- c) Late or missing information fees or penalties charged by MLS are the responsibility of the listing sales associate.

- d) Cooperating brokerage real estate companies who sell a listing of the Company's will be paid the fee as stated in the MLS. The fee paid to the co-operating brokerage companies will vary in accordance with the terms agreed upon and put in writing by the seller client.

3.4.11 Property Inspection Tours

- a) Property tours can be an effective marketing tool for listings. Agents can arrange to have their listings placed on a property tour; which are typically a function of their local board.

3.4.12 Signs

- a) A clean, bright "For Sale" sign is a most important selling tool. That sign finds buyers that want the location and like the exterior of the home. Templates are available in the Fathom Agent Box. Agents are permitted to modify the templates and color schemes, but at a minimum the company logo must appear on the sign and can be as small as 5% of the total sign to allow for adequate agent branding. Further, the Fathom logo as a portion of an individual agent's branding must be included and the size must be a minimum of 20% of the individual brand logo. ***It is the agent's responsibility to maintain signs in a clean and orderly manner while displayed.*** It is the listing agent's responsibility to add their TEXT rider and sale pending signs.
- b) On For Sale and Open House signs it is vitally important that you conform to the communities' ordinances and sign policy on each listing. If you violate a sign ordinance, any fine shall be your responsibility, not the company's.
- c) Verify with local ordinances, but arrows and directional signs typically cannot be placed on public property. To use them you must put them on private property with the property owner's permission. Public property includes highways, parks, playgrounds, and parking areas on residential streets.
- d) In the event an individual sign must be designed, painted and erected for special purpose listings, such as commercial, industrial, vacant land, or to conform to an HOA, the graphics available in Agent Box will be used and the creation of a new sign will be at the agent's expense.
- e) Condominium and town house association by-laws may prohibit the use of "For Sale" signs on the premises. When listing this type of property check the sign policy. Agents are to abide by their policies regarding the placements and use of signs.
- f) The sign must be removed from the listed property promptly upon closing or expiration of the listing.

3.4.13 Sales Associate Rights to a Listing

If a seller wishes to change listing agents, the Broker will assign a new agent to the listing. An agent cannot cancel or withdraw a listing without Broker approval. It is in the Company's best interest to try to change listing agents if the seller is unhappy with the original listing agent. The original listing agent MAY receive a negotiated referral fee of the listing commission at the discretion of the Broker.

3.4.14 Joint Listings with another Company Associate

- a) It is the responsibility of the associates jointly listing a property to make their own arrangements, setting forth their working agreement in writing. The understanding will include advertising and open house rights, sign calls, all prospects and listings obtained through the listed property.
- b) If there is not a written understanding among the associates or a dispute arises, the Company will consider commissions and prospects on a 50/50 basis and the Broker will use their discretion to resolve the dispute.

3.4.15 Competition with Another Company Associate

If in attempting to list a property, the owners state their intention to list with a fellow associate, we strongly recommend that you agree with the owners, support that they have made a good choice and leave. Keep in mind the Code of Ethics Article 15.

3.5 Buyer Representation Agreements - Obtaining and Servicing

3.5.1 Buyer Representation Intermediary Notice Forms and Information

Types of Buyer Representation Agreements

1. Exclusive: The buyer agrees to purchase a property only through the Brokerage Company. This applies to properties listed, whether in the MLS or otherwise, which would include properties that are FSBO, builder's properties, or any unlisted property. The Exclusive Buyer Representation Agreement should always be used.
2. Non-Exclusive: The buyer has the right to purchase a property through the agent of their choice or directly from an owner. The only time a fee would be due the Brokerage Company is when the buyer purchases a property that has been contracted through the Brokerage Company (commonly known as procuring cause).

Intermediary Notice/Designated-Dual Agency

1. Only state Bar Association approved agreements may be used to represent the buyer. Agents are not permitted to make changes to the state bar association-approved forms; an attorney must make any changes.
2. The Buyer Agent must fully explain the Buyer Representation Agreement to the Buyer(s) and obtain all necessary signatures. All parties in the transaction **MUST** sign the agreement, i.e. husband and wife, partnerships, or any other legal entity. The party who will be making application for the loan and qualifies to purchase the property must sign the agreement.
3. When presenting a Buyer Representation Agreement ensure that all necessary paperwork has been completed and filed as required by the local and state governing entities.

3.5.2 Mandatory & Strongly Recommended Buyer Agency Events

MANDATORY BUYER AGENCY EVENTS

It is the policy of this company that any agent working in the following circumstances **MUST** act as a buyer's agent and may not act as a subagent of the seller.

1. The agent is buying property for her or himself. In this case, the agent must reveal his status as a licensee in the personal transaction (includes the purchase, sale, exchange, rental, lease, or auction of real estate.) **The agent meets this requirement by disclosing in UNDERLINED CAPITAL LETTERS on the first page of the contract his status as a real estate licensee.**
2. The agent is working with the agent's immediate family, that is, mother, father, brother, sister, children, any of their spouses or any business owned fully or partially by any of these persons.

STRONGLY RECOMMENDED BUYER AGENCY EVENTS

It is the policy of this company that any agent working in any of the following circumstances is strongly urged to work as a buyer's agent.

1. The agent is working with any relative by blood or marriage not in the agent's immediate family as defined above.
2. The agent is working with a close friend, business associate or long term past customer or client.
3. The agent is working with a seller of a currently or previously listed property to find property to buy. The agent may be concurrently working with the seller to sell the property and also working to buy a new property. This event also applies to a seller whose property is under contract or closed and is working to buy a new property.

3.5.3 Length of Term

Terms of the Buyer Agency Agreement will vary from buyer to buyer. However, a minimum period of 45 days is recommended in order to allow sufficient time for the purchase and closing of the transaction. A minimum listing period of 120 days is recommended. All agreements can be extended with the written consent of both parties.

3.5.4 Cancellation

If a buyer wishes to cancel their buyer agreement, it is our policy to attempt to assign the buyer to a different agent. We will always try to save the client. It will be at the Broker's discretion to release a client from a binding agency agreement.

3.5.5 Reserve Properties

Reserve Properties: If a buyer has been previously negotiating on a property prior to signing the Buyer Representation Agreement and wants to exclude that property from their agreement, the client must disclose the situation and the address to the agent prior to signing the Buyer Agency Agreement.

3.5.6 Submission to Office

Upon signing of the Buyer Representation Agreement the complete file for the Buyer must be uploaded into the Fathom Realty transaction management system within 48 hours of execution date. Further, agents are responsible for submitting the transaction for review and approval at least 3 to 5 business days prior to closing. Failing to submit paperwork in accordance with company policy is a violation and may result in a delay in closing and the processing of commission disbursements, and/or result in all compensation being paid through the Market Center.

3.5.7 Cancellation or Withdrawal

If the Buyer Representation Agreement is canceled or withdrawn, it is the obligation of the Buyer's agent to furnish a list of all possible properties under consideration that were presented by the agent and to protect that list of properties for a 90-day period. If the Buyer re-signs a representation agreement with a different Brokerage Company, the protected property list is null and void unless the Fathom agent can provide a strong case for procuring cause. These instances should be discussed with the Broker to determine the appropriate course of action on a case-by-case basis.

3.5.8 Other Buyer's Agents

If a Buyer you encounter says they are working with an agent, it is critical to ask if the buyer has signed a Buyer Representation Agreement with the other agent. If the buyer has signed an Exclusive Buyer Representation agreement with another agent, you may not pursue that buyer, except at their request as per the NAR Code Of Ethics. Do not solicit clients who are already working with another brokerage firm. Please note that all mass/targeted marketing materials

that are sent out must include a disclaimer indicating that the marketing is not an attempt to solicit business from a customer who has already hired another agency to represent them.

3.5.9 Fees

All fees charged to the buyer must be approved by the District Director. This includes but is not limited to: retainer fees, hourly fees, transaction fees, cancellation fees, and FSBO flat-fee compensation fees. All fees paid by the buyer must be reported on the HUD closing statement. Agents must abide by the state rules regarding agents charging transaction or other fees to their clients. Fathom Realty does NOT endorse agents charging their clients any transaction or “brokerage” fee at the close of sale.

Fathom Realty will charge an administrative/bookkeeping fee for all monies that come through the firm related to miscellaneous fees or referral fees as noted in the above paragraph. Please reference your schedule A.

Section 3.6

Other Brokerage Activities

3.6.1 Broker Price Opinions/Comparative Market Analyses

Most appraisals of real property have been (and still are) required to be performed by a licensed or certified real estate appraiser. However, some states, have allowed a limited exception to this requirement that allows real estate licenses to perform a “Comparative Market Analysis (CMA)” so long as the real estate licensee does not represent himself or herself as a license or certified appraiser or registered appraiser trainee. The term “Broker Price Opinion (BPO)” has been considered synonymous with the terms “CMA”. The primary issue involving CMAs/BPOs pertains to when they are performed for parties who are NOT “actual” brokerage clients and the question is whether the party for whom the CMA is performed is a legitimate “prospective” client. Fathom Realty’s policy regarding CMAs/BPOs is to allow our agents to perform a CMA/BPO *for a fee* so long as the following conditions are met:

- a) There is a genuinely reasonable possibility that the broker will enter into a brokerage agreement as a sellers’ or buyers’ agent for the property that is the subject of the CMA.
- b) The broker’s license is in good standing, on active status, and the agent is a full broker (not provisional).
- c) It is not for an existing or potential lienholder or other third party where the CMA/BPO is to serve as the basis to determine the value of a property for the purpose of originating mortgage loan, including first and second mortgages, refinances or equity lines of credit.
- d) The CMA/BPO does not estimate the value or worth of a parcel of or interest in real estate and instead, it can only estimate the “probable selling price or leasing price” preferably listed as a range.
- e) The broker must have knowledge of the real estate market where the subject property is located, direct access to market sales or leasing data where the subject property is located, and brokerage experience in the subject property’s local area.

As allowed by state laws, any Fathom broker is permitted to perform a BPO/CMA for any party when NO FEE is charged.

3.6.2 Office Procedures to Safeguard the Confidentiality of Information

CLIENT INFORMATION

"Confidential information" is defined as information about a person's assets, liabilities, income and expenses; personal information; motivations to purchase, rent or sell real estate; bargaining information (for example, a price a client is willing to pay or accept, previous offers made or accepted); and information which a client tells you is privileged, private or confidential. Information about the physical condition of a property should be discussed with your Broker.

Confidential information concerning a client of the Company should never be discussed with other sales associates or sales associates from other companies.

Client files are confidential, and sales associates should not review another sales associate's file. All negotiation, in person or phone, must take place in a conference room or other secure location. No messages of a confidential nature concerning the seller should be left with anyone other than the listing associate. Similarly, no messages of a confidential nature concerning a buyer client should be left with anyone other than the sales associate working with that buyer. Care should be taken in using fax, photocopy machines, and online cloud storage servers to ensure that confidential information is not revealed to others. Confidential information should not be revealed or discussed during office meetings or other gatherings of sales associates.

AGENT INFORMATION

"Confidential information" is defined as information about an agent's income, transaction volume, details of transactions, expenses, personal financial information (to include credit card payment information). This includes agent login information to access to cloud storage or technology platforms.

Confidential information concerning an Independent Contractor of the Company should never be discussed with other employee, Independent Contractors, or sales associates. Independent Contractor files are confidential and may be maintained on a secure device and/or cloud server that is password-protected. Access to these confidential files is only granted to employees of the firm on a "need to know" basis and is not to be stored on a local device. In the event that a device is compromised (this includes not syncing a local device to a cloud server), Independent Contractors will immediately notify their supervisor so that appropriate remediation efforts can be made to protect the agent and/or other affected parties.

3.6.3 Overview of the Process for Bidding on HUD Properties

The following Fathom Policy explains the process for bidding on HUD properties on behalf of Fathom clients. All agents should be aware that bidding on HUD properties is a privilege. The ability to bid on U.S. government properties should not be taken lightly. By agreeing to the company policy, you are acknowledging that you have read and understand your responsibilities as a representative of Fathom Realty to the U.S Government while bidding on HUD properties.

Step 1. Contact your District Director to confirm that a Fathom NAID number is available for your area/state. Confirm the firm name, NAID #, EIN #, and principal broker's name & email address (You will need this information in Step 2). Comply with any local policies and complete internal documentation that your Principal Broker may require.

Step 2. Register as a selling agent on the HUD HomeStore website PRIOR TO SUBMITTING A BID. Registering should only take a few minutes. You can learn more about how to register as a selling agent at this link: HUD Registering as a Bidder

LINK ADDRESS:

https://www.hudp260.com/Documents/HUDHomestoreBidderRegistration_esigs.pdf

NOTE: You will need to enter the following information during the registration process:

Firm Name: Fathom Realty _____, LLC

NAID # is: _____

EIN # is: _____

Principal Broker: _____

Principal Brokers email address: _____

Step 3. Go to HUDHomestore.com and login to the site using your new registration info that you created in Step 2. Once you login, search for and then click on the listing to view the property.

Step 4. On the "Property" screen – click "Submit a Bid." Complete step-by-step directions are provided to submit a bid electronically. READ THE INSTRUCTIONS CAREFULLY and be sure to verify your client's identity. REMINDER: Do not submit a bid without first verifying that your client's driver's license information matches their name/SSN/etc.

You will need to submit accurate email addresses for the following people:

The Selling Broker who will sign the contract

Up to 4 Buyers

The Closing Agent (Closing Attorney or Title Company)

If necessary, this required information can be changed once the bid is accepted. The new e-signature sales contract will need accurate email addresses for all parties since sales contracts will be sent to those email addresses for electronic signing.

Step 5. If your buyer's bid is accepted you will be notified by HUD via email sometime the following business day (usually by 2:00pm). The bid information will be posted on the website, as well as any possible back-up offers that are acceptable to HUD. The clock is now ticking.

When the Sales Contract is created, the Selling Broker is sent an email detailing contract requirements. The Selling Broker accesses the Accepted Bids/Checklist screen in HUDHomestore.com and selects the Verification checkbox for each section of the bid: the Designated signer, the purchaser, and the Title Company/Buyers Select Closing Agent.

The Selling Broker may be prompted to add information or upload additional documents. If required, proof of the earnest money deposit must be uploaded.

Once this information has been submitted, the Asset Manager for HUD will initiate the generation of the E-Signature process. The signers will then be contacted at their email address to digitally sign the contracts.

NOTE: When a bid has been awarded, agents will ONLY have 2 business days (48 HOURS) to submit contracts to the HUD Asset Manager.

This means:

Every required document necessary to complete the transaction must be completely e-signed along with the earnest money deposit check made out to HUD, within 2 business days from award notification.

Not doing so may cost the buyer a property and you a commission.

Required forms are as follows:

- Sales Contract – HUD Form 9548 and certification of broker form.
- Addendums: Lead-Based Paint, Radon & Mold, Earnest Money Deposit, Forfeiture and Extension Policy, Home Inspection, Owner Occupancy (if applicable).
- A Pre-Qualification letter from a certified, licensed lender is a requirement on all sales containing a mortgage contingency.
- Additional forms may be required depending on locality.

IMPORTANT THINGS TO REMEMBER:

- Verify identity of client bidder before submitting an offer!
- No repairs to be made by Buyers prior to settlement!
- HUD homes are typically sold “AS IS”.
- Pre-settlement inspections are strongly recommended. If client declines an inspection, you must have this in writing.
- Timely submission of ALL necessary documents are required to secure the sale!
- BE PREPARED: Even with the electronic signature process, you may incur Fedex/Overnight charges to meet HUD’s deadline once your buyer’s bid is accepted.

Step 6. You can check the status of your client’s bids by logging into your account and clicking on “Bidding Resources” at the top right of the screen. You can search by property/confirmation # or status of the bid.

For more detailed step-by-step instructions on the HUD bidding and new e-signature process, you can download the following PDF created by Yardi for HUD: HUD Bidding and E-Signature Guide

Link address: https://www.hudp260.com/Documents/HUDHomestoreBidSubmission_esigs.pdf

Video instructions are available at the following link: HUD Video Guides

Link address:

https://www.hudhomestore.com/ListingSiteFAQ.htm?utm_source=WhatCountsEmail&utm_medium=HUDHomeStore%20&utm_campaign=HUD%20Home%20Store%202017-04

Section 4.0

Showings, Open Houses, and Prospects

4.1 Showing Listings

- a) All showings are to be by appointment or at the direction of the seller, or when the seller authorizes showings through a showing service.
- b) If you arrive at a home and your buyer does not want to inspect the interior, it is a courtesy to go to the door to inform the owner, in person or in a note, or to cancel via the showing service. If the seller is not at home, leave the note and your business card in a prominent place in the home.
- c) So that the owner is aware of your identity, leave your business card at every showing. We recommend that you put the date and time on the card.
- d) It is always in your best interest to be courteous to all property owners. Do not make any remarks or give opinions about price, conditions or the listing agent. Extend all the courtesies you would hope your owners would receive from other agents.
- e) Unless declined by the seller, you may show any property unless there is a signed purchase agreement accepted by both owners and buyers. In the event that the seller requests back-up offers, property may still be shown. If there is an outstanding counter-offer you may still show the property with the seller's permission through the listing agent or showing service.

4.2 Prospect Protection

Cooperation creates a win-win-win situation for the sellers, buyers and you as the Fathom Realty agent.

- a) Therefore, Fathom offers these guidelines for open houses with prospects entering and viewing an open house.
 - 1. Any Fathom Realty agent may stop by your open house with a prospect without an appointment and accompany the prospect through the home. If a sale results from the showing to that prospect, the buyer portion of the sales commission goes to the showing agent.
 - 2. Here is a scenario: Fathom Realty Agent A informs their client/prospect in advance of an open house and notifies the open house Agent B that a prospect (by name) will be coming to the open house, unaccompanied by the Fathom Realty Agent A. In this situation, the firm's position is that Agent A is entitled to receive 100% of the sales commission, in the event a purchase agreement written (even if it is written by Agent B) is accepted by the seller.
 - 2. If in the rare event, and lack of a Buyer Representation Agreement; Fathom Realty Agent A has been working with a prospect and has shown the prospect homes, developed rapport, etc. and the prospect still enters a Fathom Realty open house of Fathom Sales Agent B, without previous notification, Agent A

will receive the buyer's agent portion of the sales commission. As a professional courtesy, open house Agent B will contact Agent A and report that prospect did come through the open house, was interested in it, and that the Agent A should follow up with the prospect.

b) Fathom Realty requires that agents register ALL leads in the company lead management platform for the market center. Leads must be entered/imported into the lead management platform immediately to ensure that the agent receives credit for working with the lead and to confirm that no other Fathom agent is already serving the client. *As a general rule, prospects that are not registered are not protected.* If the situation arises where a lead is already registered with another Fathom agent, the firm expects the agent will contact the agent who has already claimed the lead to inquire about the status. If the agents cannot agree on what is in the best interest of the client going forward and reach a mutually agreeable decision, the Broker will review the situation and make a decision regarding who is entitled to serve the client and how each party will be compensated. The Broker's decision regarding the matter will be final and all parties are expected to comply with the Broker's guidance.

4.3 Safety for Agents

Real estate sales agents routinely find themselves in situations in which they are alone with clients or customers about whom they have very little information. The very nature of showing real estate to prospective buyers and tenants who are virtual strangers can make agents, both men and women, susceptible to becoming victims of violent crimes. Fathom Realty recommends that all agents follow three basic safety practices:

- a) Identify the person you are working with before you join him or her alone, in a car or a house. Preferably meet them at the office, copy his or her driver's license and make sure someone from the office knows where you'll be going with the person.
- b) Always carry your cell phone with you and make sure it is fully charged and has reception. Program 911 into speed dial and don't hesitate to call for help.
- c) Trust your instincts. If you have a bad feeling, don't second-guess what it's telling you. Listen to your gut feeling and protect yourself.
- d) For more detailed safety tips and practices, please consult your state's Real Estate Agent Safety Guide.
- e) In addition to following the procedures discussed in the Safety Guide, agents must have a current Agent Personal Information Form on file with their Broker. Agents also should ask that each new client or customer complete a Client/Customer Identification Form before going to view property, and they should fill out an Agent Itinerary Form before each appointment.

Section 5.0

Obtaining and Presenting the Purchase Agreement

5.1 Disclosure of Sellers Agency Relationship

Prior to writing or presenting an offer to purchase a property, all agents must fully disclose the agency relationship that you are in at the time and have clients sign applicable forms as required by state law.

5.2 The Purchase Agreement

- a) The purchase agreement is the contract that sets forth the intent of both the buyers and sellers. It establishes the basis upon which both clients, listing and sales agent, mortgage companies and title companies process the sale.
- b) All applicable purchase agreement addendums must be signed by all parties, have an execution date, and remain with the original purchase agreement.
- c) The lack of a complete understanding of all terms of the purchase agreement can create problems later. Make certain all parties review the entire document and make every effort to see that they understand the offer. If legibility is an issue, an unsigned 'for clarification', clean readable copy may accompany the original.
- d) Non-Realty inclusions and exclusions can also create issues. Be exact and complete. The purchase agreement supersedes the listing agreement and the seller's statement of condition. If any fixture is not included; specify that exclusion on the purchase agreement. Remember, all personal property included in the sale must be clearly defined in the purchase agreement via a non-realty addenda or separate personal property bill of sale. Consult the buyer's mortgage company for guidance on the best method of handling non-real estate items on the purchase agreement as it relates to loan qualification of the buyer.

5.3 Multiple Offers

- a) The company will always be guided by lawful instructions of the client in any multiple offer situations. While the company believes that these procedures protect the client, the client may choose to give the company other lawful instructions. The agent should discuss with the client, whether seller or buyer, the customary procedures for handling multiple offers so that the client may determine whether the client wishes to give the agent or company different instructions.
- b) Standard of Practice 1-15 of the Code of Ethics requires that the listing agent, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, divulge the existence of offers on the property. In addition, Standard of Practice 1-15 requires that, when disclosure is authorized, the listing agent has an affirmative obligation, if asked, to disclose the "source" of the offer, i.e. whether the other offer(s) are from a prospect of the listing licensee, another licensee in the listing licensee's firm or a cooperating broker.

- c) In the event of multiple offers on one property, Fathom Realty follows a policy, with the seller's approval, of notifying all offerors that his/her offer is in competition with other offers as well as giving the opportunity to change the offer. The notification shall take place only after multiple offers actually exist and not when the listing agent may have knowledge of other offers being written or possibly being written.
- d) An exception to this policy exists if the seller has a currently effective counter offer in possession of a buyer. In that event, the agent will not disclose the competition to the second or later offeror until the seller has had the opportunity to examine the second offer. This gives the seller the ability to determine whether he/she desires to revoke her/his counter offer to the first offeror to negotiate with the second offeror.
- e) State real estate commission laws prohibit disclosure of the price or other material terms contained in a party's offer to purchase to a competing party without the express authority of the offering party. Therefore, the agent should not reveal any terms of the offer to any other party including expiration time of the offer, price, closing dates, earnest money amounts, financing types, amounts or dates or other terms.
- f) If another agent, whether from Fathom Realty or another company, asks the listing agent to "let me know if another offer comes in", Fathom Realty has a general policy of not acknowledging such requests. If other offers come in, the agent should advise the client that inquiries of this nature have been made and ask the client whether those requests should be followed up.
- g) If multiple offers exist and the listing agent has written one of those offers, the policy of Fathom Realty in such circumstance is that the listing agent may not present any of the offers. In this case, the Broker (or other Fathom Realty agent if management is not available) must be asked to present the multiple offers.
- h) If a listing agent has already presented an offer from another agent and a customer of the listing agent asks to write a competitive offer, the policy of Fathom Realty is that the listing agent must ask the Broker or other Fathom agent to write the offer for the listing agent's customer. The listing agent's prior knowledge of the first offer could be seen as influential or biased if the listing agent's customer should be successful in negotiation.
- i) In general, whenever the listing agent has knowledge of an offer presented, or could use information he/she has to the detriment of one of the competing parties, Fathom Realty strongly recommends that a third party agent, such as a Broker or Group Leader or other agent, become involved to assist in the negotiations.
- j) A final issue regarding presentation of offers regards whether an oral offer must be presented. The rules of each state's Real Estate Commissions speak to presentation of "instruments," thereby implying that only written offers need to be submitted. However, common law agency principles dictate that all material and relevant

information of which the agent has knowledge should be given to the client. In addition, Standard of Practice 1-7 of the REALTOR Code of Ethics speaks only of submitting all offers to the seller.

- k) In accord with agency obligations of disclosure and loyalty and in the spirit of the Code of Ethics, Fathom Realty's has a policy of giving the seller client all material and relevant information of which the agent has knowledge. In accord with this policy, if a customer insists on an oral offer, the company believes that the seller is entitled to that information.
- l) The company recognizes that such an oral offer alone is almost certainly unenforceable under the laws of most states. However, it is prudent to tell the seller what the agent knows, that is, an oral offer was made by this party and it is unknown whether the party will ultimately be willing to commit the offer to writing. At this point, a seller may choose to make a written offer to sell and thereby initiate the contract process him/herself.
- m) Additional resources on this topic are available on REALTOR®.org, Law and Policy. The NAR Professional Standards Committee has published a guide for agents and brochure for buyers and sellers on "Presenting and Negotiating Multiple Offers."

5.4 Timing of Presentation

- a) Fathom Realty strongly supports and maintains a policy to present all offers and counter offers as quickly as possible. Standard of Practice 1-6 of the Code of Ethics provides the standards in this area. The Rule requires offers and counter offers to be delivered "as quickly as possible."
- b) The policy of Fathom Realty is that these terms are to be interpreted to mean "immediately" or "as soon as humanly possible". As an example, a listing agent's receipt of an offer should immediately generate a telephone call to the owner to determine when the seller is available for presentation of the offer. Once contacted, the seller can then instruct the listing agent as to when to present the offer. The listing agent MUST make a diligent effort to contact the seller immediately upon receipt of the offer - not an hour later, not when the agent finishes lunch, not after the agent shows property.
- c) In the case of a buyer agency, the same principles apply with equal weight. The buyer is the client and must be treated with the same high levels of fiduciary duty as a seller who is a client. These same principles should be adhered to even in the case of a buyer who is a customer and not a client.
- d) This is an extremely simple yet very important risk reduction technique. Every agent of this company should consider this of prime importance. The obvious danger in not taking this issue seriously is that the offeror can revoke/withdraw her/his offer at any time prior to a valid acceptance. Fathom Realty does not want to be in a position of defending an action where an offer was withdrawn before a seller was contacted or diligent efforts to contact the seller were not made.

- e) These issues are common, daily events that the agent should learn to handle with skill and ease. The agent's ability to understand and deal with these issues will act as a significant risk reduction method and contribute to an agent's successful practice of the real estate business.

5.5 Earnest Money

- a) The purpose of the earnest money is to show good faith and commit the buyer to the purchase. More earnest money, means the buyer is more committed to complete the transaction. Fathom Realty sees an average of \$1,000 earnest money for the average property. Earnest money should be proportional to the price of the property.
- b) It is a company policy to NOT accept earnest money or to deposit funds in a Fathom escrow account. All earnest money deposits must be held by the cooperating brokerage OR closing/title company in an escrow account.
- c) The Buyers should make the earnest money check payable to the selected Title/Escrow Company. If the buyer has cash for the earnest money instruct them to purchase a money order. (Many convenience stores sell money orders for a minimal fee.) At no time are agents permitted to handle cash.
- d) Earnest money must be deposited immediately and in accordance with state law. Most states require money to be deposited within 2 to 3 business days of receipt. In those states where it applies, provisional brokers are NOT permitted to hold earnest money, it must be deposited immediately or given to the Broker for handling until the deposit can be made.
- e) Explain to your client that if the amount of earnest money exceeds the down payment and closing costs the excess will be returned to the buyer or applied to the closing.
- f) Be sure Buyers know both Earnest and Option checks WILL be cashed, not just held until closing.
- g) If in the event an earnest money check is returned (insufficient funds or any other cause) the agent must notify the seller and brokers on both sides of the transaction immediately in writing of the returned check and work with the buyer to get certified funds immediately deposited.
- h) Disbursement of earnest money is the responsibility of the Escrow Officer who will make the determination as to the recipients in accordance with the provisions of the sale agreement, the provisions of license law, and any earnest money disbursement agreement signed by both parties. In this regard, the Associate should not commit the Broker or Escrow Officer to any decision as to the disposition of the earnest money being held except that it will be applied to the amount owed by the purchaser when the sale closes. The agent will place a copy of all papers relative to disbursement in the canceled file and make a notation on the canceled contract as to how disbursement is made.

- i) Earnest money on a back-up offer must be deposited in accordance with the contract. You cannot wait until the contingency is removed.
- j) Postdated checks and promissory notes will not be accepted as earnest money.
- k) Improper handling of earnest money is grounds for immediate dismissal of an agent.

5.6 Real Estate Taxes

- a) It is recommended that the Sales Associate refer clients to their tax advisor or CPA for questions related to real estate taxes as it relates to the purchase or sale of a residence/land.
- b) Property valuations may change when a property is sold. DO NOT MAKE REPRESENTATIONS TO CLIENTS AS TO FUTURE VALUE, TAXES, OR HOA DUES.

5.7 Buyer's Signatures

- a) There may be an occasion when you are able to receive only the signature of one buyer. In this event, the contract should include the available buyers name and "or assignees." This eliminates the need to get additional signatures. However, make sure that the party who can actually qualify for the loan is the party who has signed the contract.
- b) All changes and corrections must be initialed by all parties to contract. **Never** make changes or sign or initial on behalf of a client, even when you have been asked to by either party.
- c) E-signatures can be used for contracting the agreement as long as the document is coming from the buyer's email address.

5.8 Appointment to Present the Offer

- a) All offers should be typed or printed legibly and the earnest money check made payable to the closing/title/escrow company and should accompany the offer. In some states, the earnest money check must accompany the offer. Consult state laws regarding the handling of earnest money as it relates to the Purchase Contract. A copy of the earnest money check will be made and uploaded for the office files.
- b) The listing agent/broker should be contacted immediately for presentation of the offer.

5.9 What Offers Are To Be Presented

- a) Fathom Realty requires that all written offers on a property are to be presented immediately. The offer must be accompanied by an earnest money check.

- b) Oral offers have no validity in real estate transactions and if presented verbally, they are not enforceable by law. Notify all parties that the offer is not binding until it is in writing and signed by all parties.
- c) In the event there are offers from more than one buyer, all offers deserve equal consideration regardless of the sequence in which they were written. All offers should be presented as they are received. The seller's agent does not have the authority to disclose to the buyer's agents or buyers that there are multiple offers without the written authorization from the seller. When given that authorization, the listing agent will notify the buyers agents of the multiple offer situation and discuss how those offers are going to be presented. If the offers are from intermediary buyers and there appears to be a potential conflict of interest, the Broker must be contacted for possible presentation of those offers, or assignment of buyer representation. In multiple offer situations, the listing agent should abide by the rule of thumb - "what you tell one side, you have to tell the other."
- d) In the event there is an outstanding counter-offer on a home, a new offer may be presented if received prior to the acceptance of the counter-offer by the first buyer.

5.10 Presenting the Offer

- a) The listing agent typically presents the offer, however, the selling agent may be asked to present the offer.
- b) As listing agent, your primary legal responsibility is to represent the seller. Be certain to meet that responsibility.
- c) It is a good business practice to prepare a "Seller's Estimate Closing Statement/ Net Sheet" and review it with the seller at the time the offer is presented.

5.11 Acceptance of a Counter-offer

An offer may be accepted, rejected, or countered by the seller.

- a) If the offer is accepted without change, have the seller sign it. At the time that the offer is signed, the contract is executed. The original purchase agreement, addendums, and the earnest money are held (and deposited) by the listing firm. All parties must receive a copy of all executed documents.
- b) If the offer is changed in any way it becomes a counter-offer. In the case of a counter-offer the seller must sign the counter-offer and agree to the modified terms. The counter-offer becomes a contract when it is signed by all parties. Copies should be distributed as in a.) above.
- c) Never take or make verbal assurance to another agent that something "will be okay with the my client. Don't bother to change the contract." Get all changes to the

contract signed and initialed, (dates, and times are helpful); if you do not, you may be legally and financially responsible.

- d) When a contract is terminated, all forms and a copy of the earnest money check from the executed offer are to be uploaded into the Back Agent system to comply with E&O insurance requirements.
- e) **Never sign or initial papers on the behalf of the buyer and seller, even when you have been so instructed to by either party.** Never make any changes after the purchase agreements have been signed by the buyers and the sellers, except with specific instructions to make changes by buyers and sellers and have buyers or sellers initial the changes made. These changes may be dated but that is not a requirement.

5.12 Purchase Agreements

- a) The sale begins and ends with the Purchase Agreement. If the Purchase Agreement is not complete or it is not completely understood by both Buyer and Seller, the chances of a good closing are very remote. Write legibly, type where possible. Re-read the Purchase Agreement, be sure it states exactly what the client intended. The sale will be closed according to the terms in the Purchase Agreement. When accepted, the Purchase Agreement becomes a binding contract.
- b) Should Terms or stipulations be changed in the Contract, the agent must have an addendum showing the change and execution date, signed by the Buyer and Seller, in the file prior to closing.
- c) All accepted Contracts must have the following information pertaining to buyer and seller: Property address, Client phone number, Client email address, and Clients' attorney/title company's information if applicable.
- d) Purchase Agreements must also have the following necessary information: property address, legal description, sale price, date for securing financing, closing and possession dates, and consideration.
- e) If the offer must be sent out of town for "signatures", an overnight service should be used. Fax signatures may not be substituted for originals. Secure E-signatures are accepted on all contracts except HUD sales contracts.

5.13 Cancellation of A Contract

A contract, including the clause "null and void and the earnest money is to be returned to the buyer," may not legally cancel the offer. A contract will only be legally canceled by a written agreement to cancel between the buyer and seller or by a court order. Associates are required to have a termination/cancellation agreement signed by the terminating party.

Always discuss any pending terminations/cancellations with your Broker.

5.14 Rejected Offer

If the seller rejects an offer or if either the buyer or the seller rejects a counter-offer, make sure to write REJECTED on the offer or counter-offer. Have the party initial and date the REJECTED area as well as the notation of REJECTED or Void across the face of the contract. This will help prevent confusion going forward.

Section 6.0

Closing Procedures

6.1 Completion of Sales Information

- a) Allow enough time to close the transaction. Allow time to have an inspection done, title search/title opinion rendered, loan processing, inspections, and to prepare the closing papers. If there are delays because of counter-offers, getting out of town signatures, etc. change your closing date and be sure to notify all parties of the change in writing and signed by all parties. Be sure to monitor the contingency deadlines carefully and if a delay is possible contact all parties well in advance so that appropriate accommodations can be made.
- b) If a mortgage is being used, the buyer's agent must remain in contact with the loan officer.
- c) Agents will comply with state laws that required a buyer's agent to notify the listing agent IF the loan is not approved. Final commitment should come from the loan officer.
- d) In the event an appraisal comes in below the agreed upon sales price, the buyers agent will be informed by the lender and the parties will need to renegotiate the sales price in the contract (assuming outside funding is involved). If negotiations are successful, the new offer will be re-submitted to the loan company for approval. If renegotiation attempts fail, listing agent should be informed so various charges incurred are not incurred unnecessarily. The closing/title company and property may be put "back-on-market," and earnest money returned to the buyer.
- e) In the event that a buyer is not able to qualify for the loan, the listing agent will be given the opportunity to work out any new avenues of financing, credit, etc. that may be available. All rejections will be discussed with the agent BEFORE they are dropped and the earnest money is refunded and various charges are paid.
- f) On sales that have "fallen through" termination forms are still required. The agent will obtain all necessary signatures prior to the release of earnest money and upload all pertinent documents into the transaction management system.

6.2 Option and Earnest Money Delivery

In states where applicable, once a contract is executed, the buyers agent MUST deliver the Option Fee to the Sellers or the Listing Agent within 48 hours of execution. Failure to do so may result in the buyer losing the right to terminate the contract.

The Listing Agent should deliver the contract and Earnest Money to the negotiated title company/closing attorney within 2 days of execution.

6.3 Inspections

TERMITE, HOME, AND ALL OTHER INSPECTIONS, IF DESIRED BY THE CLIENT, SHOULD ONLY BE ORDERED BY THE BUYER. Agents should only provide the contact information for the professionals who are qualified to perform necessary inspections. The buyer should choose his or her own criteria for an inspector. The Agent will provide a list of 2 or more inspectors that are licensed and bonded to the buyer. If the buyer chooses not to get an inspection, they must sign the decline of home inspection form.

6.4 Final Closing Documents

Closing documents such as fees for preparing and filing deeds, mortgage payoff, mortgage amount, sales expenses, etc. will be included on the actual HUD-1 closing statement for the buyer and seller, and prepared by the closing /title company.

All pertinent and signed transaction documents must be uploaded into the Back Agent system 96 hours prior to closing and the disbursement of funds.

Filing, disbursement, and change of possession cannot be made until all funds are collected from buyer and/or seller, and declared 'funded' by the title company. Table Funding is the preferred method of agent commission disbursement.

6.5 Wire Fraud

Fathom Agents must talk to your buyer and seller clients regarding the threat of wire fraud. Wire fraud has become a serious concern that has cost buyer and seller clients in real estate transaction millions of dollars nationwide. To help inform our clients, Fathom Realty strongly recommends all agents add the language below provided by NAR to all written correspondence with buyer and seller clients.

"Never Trust Wiring Instructions sent via email. Cyber Criminals are hacking email accounts and sending emails with Fake wiring instructions. These emails are sophisticated and convincing. Always independently confirm wiring instructions in person or via a telephone call to a trusted and verified phone number. Never wire money without double-checking independently that the wiring instructions are correct and have not been compromised."

This notice does not serve as a substitute for educating your clients and other participants in your real estate transactions about email wire fraud. For more info about best practices to avoid victimization by cyber criminals see "Protecting Your Business and Your Clients From Cyberfraud" from NAR.

6.6 Down Payment

- a) Transactions cannot be closed nor any funds be disbursed until such time as a personal check has cleared the bank account. Title companies require certified funds for any amount over \$1,500. This amount may vary by state. Consult your state's policy regarding this requirement. Make sure your buyer has the proper amount from the title company in time to get the certified funds to close. Post-dated checks CANNOT be accepted. Checks cannot be 'held'. All checks will be deposited the day they are received or the next banking day.
- b) In the event there is a seller shortage of funds necessary to close the transaction, the title company may hold the transaction and insist certified funds be collected before closing.

6.7 Commission Payment

- a) Upon receipt of all closing documents, proceeds, and reporting, commission checks are cut by the title company/closing attorney, in accordance with a CDA Commission Disbursement Authorization that is provided to them by the Fathom Realty Compliance Department (this is referred to as 'Table Funding').
- b) All forms relating to the transaction must be approved by the District Director in the transaction management platform and the CDA must be delivered to the title company/closing attorney by the Fathom Realty Compliance Department in order for the commission check to be issued. If there is a form missing or if there are mistakes, the check will be withheld until the corrections are made and the appropriate forms are uploaded and approved.
- c) On those occasions when closings occur prior to the transaction file being complete and approved by the District Director, the title company/closing attorney will issue the entire commission check to Fathom Realty. Our Accounting Department will issue the agent commission check when the file is complete (this is referred to as 'Standard Funding').

6.8 Team Commission Disbursement

A Team Leader has two options with regard to how they want to handle documentation submission and commission disbursement with their team members.

a. Option 1: Team Leader managed CDAs

- Team Members submit their paperwork to the Team Leader or the team's Admin Assistant for review and approval
- Team Leader or Admin uploads paperwork to Team Leader's account in the Transaction Management platform
- Team Leader or Admin will create the CDA with Team Member listed as referring agent
- Team Leader or Admin submits the CDA for Manager approval
- Manager approves CDA and sends a confirmation email to all agents on the CDA (Team Leader and Team Member) as well as the title company or closing attorney

Note 1: This will give the Team Member an opportunity to verify correct commission amount

Note 2: Team Members should not be given access to another agent's or Team Leader's account as the account contains personal information. Approved Admin Assistants are the only people authorized to access an agent's account.

b. Option 2: Team Member managed CDAs

- Team Member uploads the paperwork to their own account in the Transaction Management platform
- Team Member will create the CDA with Team Leader listed as the referring agent
- Team Member submits the CDA for Manager approval
- Manager approves CDA and sends a confirmation email to all agents on the CDA (Team Leader and Team Member) as well as the title company or closing attorney

Note: This gives the Team Leader an opportunity to verify correct commission amount.

6.9 Early/Extended Possession By Agreement

- a) Do not permit extended or early possession of a property without a properly executed possession agreement or rental agreement if more than 7 days (called a Seller Lease Back or Buyer Lease Back). The file must contain the appropriate document, signed by the seller and buyer. Both should make sure they have proper insurance coverage on the real property and their personal property.
- b) Any money due under an early or extended possession agreement shall be funds payable directly to the appropriate party.

6.10 Attendance at Closings

Attendance at closings is strongly encouraged. It is an excellent client relations tool, and can lead to preemptive troubleshooting. It is best to stay in the background, but in the event you see something is not in accordance with the contract, you should politely call this to the attention of the closer. Upon receipt, the sales agent will review the closing statement with the client, preferably as time allows, prior to the formal closing.

6.11 Uploading Final HUD

Agents will upload the final executed HUD-1 settlement statement signed by all parties to the Transaction Management platform within 24-48 hours of closing. A transaction will not be considered complete and cannot be filed to comply with Errors & Omission requirements without the HUD-1 signed by all parties. Failure to ensure that the final documentation is uploaded in a timely manner is a serious compliance issue and may result in the loss of the table funding privilege. In the case where an agent loses table funding privileges, commission to the agent will be withheld until final HUD is uploaded & approved in Transaction Management platform.

Section 7.0 Leases

7.1 General overview

Agents can assist clients in leasing property via three methods: listing, leasing or referring. Fathom company policy is that we do not allow agents to perform Property Management functions.

Listing: The agent assists and represents the landlord in finding a tenant via MLS advertising and signage. When listing a lease property for a landlord, the agent will not perform landlord or property management functions to include providing or preparing a lease, negotiating a lease, or accepting monies on behalf of the landlord.

Leasing: The agent assists and represents the tenant in finding a suitable property. The writer of the lease may vary, typically the Leasing Agent writes the lease on state promulgated forms. However, some Landlords and /or Property Managers prefer to write their own leases.

Referral: some apartment complexes utilize their own systems and forms. They write the lease and simply pay the Leasing Agent a referral fee. The agent does not provide representation to the tenant/client in these cases, and the complex does not provide the Agent with a copy of the lease.

7.2 Explanation of Permitted Leasing Functions

When marketing a rental property, Fathom agents are permitted to perform the following functions:

1. Assist the landlord in completing the approved state standardized lease form. Agent will not draft a legal document to include amending a standard form in any way.
2. Assist the landlord negotiating a lease by preparing a market analysis and communicating lease amounts to/from both parties in the transaction. This negotiation is part of procuring a tenant.
3. Accept commission funds from the landlord for both the listing firm (Fathom) and the cooperating firm (which will be paid by Fathom to the cooperating brokerage). Fathom agents are NOT permitted to accept deposits, application fees, OR lease payments made payable to the firm. Fathom agents can accept and hand-deliver non-commission funds to the landlord so long as they are made payable to the landlord so that we are not involved in processing non-commission monies. Do not accept ANY funds made payable to Fathom Realty except commission checks.

When representing a tenant, Fathom agents are permitted to perform the following functions:

1. Assist the tenant by running property searches, showing properties, and performing marketing analysis to determine fair market rent prices.
2. Deliver application and application fee to the landlord/listing agent.
3. Review the lease with the tenant. If not an approved state standard form, the agent should strongly advise the client to have an attorney to review the lease prior to them signing.
4. Once the lease is executed, the Client (not the Fathom agent) should deliver any deposit/lease payment checks directly to the landlord/listing brokerage.
5. Communicate in writing with the listing firm/landlord with instructions on the payee for the commission check (Fathom Realty) and address where it should be mailed.

7.3 Internal Accounting of Lease Transactions

For accounting purposes, it is very important that all Fathom agents involved in lease transactions follow the appropriate steps in the Transaction Management platform. Listing agents should submit the transaction for approval. The District Director will generate the Fathom Lease Commission Invoice and send it to landlord showing them the amount of commission owed to Fathom Realty and the cooperating brokerage (tenant's agent). The Fathom agent is responsible for collecting the commission check payable to Fathom Realty so that all parties can be paid. In Transaction Management platform, the Funding Confirmation (Internal document) will show disbursements that will be made to Fathom (lease transaction fee), Fathom agent (commission), Cooperating brokerage (commission) so that we can ensure all parties are paid appropriately. When representing the tenant side, agents should use the Funding Request to detail your commission breakdown so that we can ensure you are paid in a timely manner once the check arrives from the listing brokerage/landlord.

7.4 Forms

Every lease file must contain an agency disclosure form in addition to those forms noted below:

- a) Listing: If Fathom Realty is the listing firm, the agent is required to disclose agency relationship and have the clients sign agency disclosure as required by state laws. The agent will upload the Listing Agreement (and agency disclosure form if required) in the transaction management platform.
- b) Leasing: A representation agreement is highly recommended. Additionally, an agreement for compensation (between brokerages) and IRS Form W-9 for Fathom is to be provided to the cooperating brokerage.
- c) Referring: Provide the agreement for compensation (between brokerages) and IRS Form W-9 for Fathom to the cooperating brokerage.

Section 8.0

Organizational and Administrative Procedures

8.1 Terms of Association

All personnel (Agents) acting in a sales capacity are "Independent Contractors." Agents are self-employed and are responsible for your own records and payment of State and Federal Income Taxes and self-employment tax. You will receive a 1099 tax statement from the Company at the end of each year showing the total annual commissions paid to you.

Agents will sign an updated Independent Contractor Agent Agreement at the company's discretion (typically annually or bi-annually).

8.2 Conditions of Association

State Law requires that all associates selling or renting real estate be licensed by the State. After receiving a reminder from the Broker, you are responsible for keeping your license current by

referencing renewal dates and education requirements to renew. The sales associate is responsible for the fee for renewing his or her own license.

Fathom Realty is a firm comprised of REALTORS®. We require that you immediately become a member in the LOCAL, STATE AND NATIONAL BOARD OF REALTORS® AND SUBSCRIBE TO THE CODE OF ETHICS OF THE NATIONAL ASSOCIATION OF REALTORS®. The fee to belong to those associations is at the expense of the agent. We also recommend you attend many of the educational programs sponsored by the various Boards where we are members.

8.3 Conduct of Associates

In order to succeed in working with the public, you will want to present yourself in a professional manner.

- a) You will want to be neat in appearance and make every attempt to create a favorable impression. We suggest coats and ties for men when attending closings, otherwise the attire should match the environment of the showings, i.e. land sales might require casual slacks and boots. Your appearance should not distract from the transaction.
- b) A neat clean automobile reflects personal pride and organization.
- b) It is suggested that you carry your sales and listing materials in a neat portfolio or electronically.
- c) We believe that it is unwise to consume alcohol when working. Therefore, it is a guideline of our company that no member of the organization use alcoholic beverages during business hours. No member of our firm should come to their office and/or Market Center during business hours, or off hours, with alcohol on their breath, or to any extent under the influence of alcohol. We consider this to be a strict guideline. You are also encouraged to refrain from use of tobacco products when with clients. Never attempt to operate a motor vehicle after consuming alcohol. In addition to compromising your safety, the safety of your passengers, and bystanders, this reflects poor judgment and is grounds for immediate dismissal from the firm.
- d) The use of any illegal drugs are not permitted and will cause immediate termination.
- e) Agents are prohibited from conducting any electronic communication while operating a motor vehicle when clients are in the car. Do not take or make phone calls, send/receive text messages, or send/receive emails, when you have clients in the car with you.

8.4 Limitation of Authorization To Sales Associates

Fathom Realty is not and shall not be liable for any expenses or obligations incurred by agent /associates, unless a specific written authorization is granted by the Broker prior to the obligation being entered into.

8.5 Responsibilities of Sales Associates

As an "Independent Contractor," accurate representation of all facts is your responsibility. **A lack of accuracy will be at your expense.** You will also be responsible for any losses sustained by reason of your errors or omissions in connection with your preparation of documents and the conduct of business during real estate transactions.

- a) The Broker is explicitly responsible for the supervision and control of all the activities conducted on behalf of the sales associates as necessary to secure full compliance with state laws, including but not limited to the supervision of salespersons in the performance of acts for which a real estate license is required. The Broker also similarly charged with the responsibility to supervise and control all activities performed by their employees and agents in the Fathom Realty name during the course of a transaction for which a real estate license is required, whether or not the activities performed require a real estate license, such as those of an assistant.
- b) To assist agents to properly carry out their duty to supervise and control activities conducted on their behalf during the course of a licensed transaction, it is important for the broker to know and identify those activities which do and do not require a real estate license. This knowledge assists the broker to use licensed persons when required, and to extend and provide the necessary supervision and control over licensed and non-licensed activities as required by law and good business practices.
- c) Broker knowledge and consent is a prerequisite to the performance of these unlicensed activities, since without these elements there can be no reasonable assurance that the activities performed will be limited.
- d) These "Guidelines", when strictly followed, will assist licensees and their employees to comply with the license requirements of the Real Estate Law. They present specific scenarios, which allow brokers to organize their business practices in a manner that will contribute to compliance with Real Estate Law. Brokers should be aware that it does not take very much to go from unlicensed to licensed activity.

8.6 Conflicts of Interest

Fathom Agents shall not engage or participate in any activities which are in conflict with the interests and activities of the Broker; engage in developing, managing, providing or marketing of services comparable to that marketed by the Broker within the Market Center (the "Restricted Area").

- a) Agents are permitted to work as a Loan Officer while affiliated with Fathom Realty, however it is not permitted to represent a party to the transaction while performing loan officer functions.
- b) Agents are permitted to sell his/her own property including but not limited to when the Agent's name, Agent's spouse's name, spouse's company name, Agent's

company name and/or Agent's trust name is on the title. This also includes common interest. However, due to increased liability, certain restrictions apply. Refer to your Schedule A (to the Agent Agreement).

c) Agents are not permitted to sell a business and/or contents of a business.

8.7 Fair Housing Declaration

FAIR HOUSING DECLARATION

As an agent of this Company, you agree to:

- ◆ Provide equal professional service without regard to the race, color, religion, sex, handicap, familial status, or national origin of any prospective client, customer, or of the residents of any community.
- ◆ Keep informed about fair housing law and practices, improving my clients' and customers' opportunities and my business.
- ◆ Develop advertising that indicates that everyone is welcome and no one is excluded;, expanding my client's and customer's opportunities to see, buy, or lease property.
- ◆ Inform my clients and customers about their rights and responsibilities under the fair housing laws by providing brochures and other information.
- ◆ Document my efforts to provide professional service, which will assist me in becoming a more responsive and successful (REALTOR®) (real estate licensee).
- ◆ Refuse to tolerate non-compliance.
- ◆ Learn about those who are different from me, and celebrate those differences.
- ◆ Take a positive approach to fair housing practices and aspire to follow the spirit as well as the letter of the law.
- ◆ Develop and implement fair housing practices for my Company to carry out the spirit of this declaration.

8.8 Automobile Liability Insurance

As an "Independent Contractor" - you are responsible for maintaining sufficient insurance coverage. State law requires that you have insurance coverage on your automobile.

We require two things:

- A minimum of \$100,000/ \$200,000/ \$50,000 coverage. This is the break down: \$100,000 for Bodily Injury - Per Person, \$200,000 Bodily Injury - Per Accident and \$50,000 for Property Damage.
- The agent will provide a "certificate"/statement from your Insurance provider that shows that Fathom Realty will be notified in the event the policy is canceled or changed. The insurance company will ask the agent for the company name and address so they can generate the certificate. Please use the 201 New Edition Ct. Cary, NC 27518

8.9 Termination

All employment with Fathom Realty is “at will”. Either party may terminate the employment relationship at any time and for any reason, with or without notice. There is no contract of employment, either expressed or implied other than “at will”. These guidelines are not intended to and do not create a contract of employment, nor are they a promise or guarantee of future or continued employment. Policies and guidelines may be revised at any time at the employer’s sole discretion.

- a) When leaving the Company you must return all company property assigned or loaned to you.
- b) When leaving the Company, you must notify your District Director AND the Accounting Department (accounting@fathomerealty.com) to ensure that all outstanding balances owed, to include monthly dues, are satisfied per the terms of your Agent Agreement. Notification of termination must be made to the Accounting Department no later than the 25th of the month to ensure that you will not be billed monthly dues for the month(s) following your departure from the Company (per your Agent Agreement Schedule A). Agent dues are not prorated. If fail to provide notice to the appropriate parties OR you leave the Company on the 2nd-30th of the month, dues for the remainder of month are not refundable.
- c) Listings can move with the exiting agent, if they are remaining in the industry if the listing was not provided through the company. Company assigned listing leads will be handled on a case-by-case basis at the Broker’s discretion.
- d) On signed transactions that are in progress including, but not limited to those in title, commission pay-outs shall be subject to the agents current Schedule A. Agents are entitled to receive commissions on transactions that are under contract at the time of termination and close after the date of termination. The Company reserves the right to assign another associate the closing responsibility and compensate them up to 30% of your portion of the commission for their work on the transaction. Fathom Realty reserves the right to deduct any fees or monies owed to the company from the agent’s commission on a transaction following termination.
- e) In the case of Buyer Representation agreements in place at the time of the termination, the agent shall retain the buyers who have signed a buyer representation. If there is no written agreement in place, the buyer is able to decide whether to work with the Company or the agent who represented them previously.

8.10 Errors And Omissions Insurance

- a) The Company maintains an Errors and Omission insurance policy. The policy has a \$2,500 deductible per transaction that will be covered by the company in the event of a claim (with exceptions listed in paragraph b) below). Each agent pays their premium in their Fathom monthly office bill. The agent is welcome to also obtain individual Errors and Omissions Insurance and/or carry an umbrella insurance policy that will provide additional protection.

- b) There may be circumstances where E&O insurance may not provide coverage and the deductible will not be covered by the company. These include cases of fraud, commercial environmental issues, and transactions in which the Sales Associate acted as a principal or property manager. Our E&O policy will not cover transactions that are closed without District Director approval and without a Commission Disbursement Authorization (CDA) approved by the Fathom Compliance Department (prior to closing). In addition to voiding E&O coverage, the agent will be subjected to a \$500 fine for repeat offenses. In those cases, the agent will be responsible for any and all expenses that result from the case.

8.11 Complaint Handling Procedures

- a) When an agent has a complaint against another real estate affiliated business, they will consult the Broker before taking any action. Do not make phone calls or write letters to reprimand or complain about the actions or services provided by any real estate affiliated institutions or businesses. This includes competing real estate firms.
- b) Any such justifiable reprimand or complaint will first be discussed with the Broker. Any subsequent letter or call will be made or sent with Broker input & consent.
- c) If a complaint is received from a client, the Broker will find as many facts as the caller/writer will share, then as soon as possible, consult with the agent involved to discuss the situation. The Broker at his/her discretion may seek appointment to meet with the complainant. Depending upon the situation, the Broker will try to resolve the situation directly with the offending party. If the parties involved in the complaint/problem do not agree to this solution, it will be referred to the mediation at the parties' expense. If an acceptable resolution is not successfully mediated, then the parties have the right to pursue alternative options.
- d) Per the NAR Code of Ethics the sales associate must agree to cooperate and comply with any order rendered by the independent mediator/courts.
- e) If a lawsuit is filed, and the sales associate's conduct is determined to be at fault, the associate will be responsible for the judgments, damages, losses, costs, expenses, etc. incurred by the Company in the defense of the lawsuit. The agent shall also be responsible for those costs even if they win, and the agent is still responsible for the fee. The Company shall be consulted regarding the defense of the case.
- f) If it is determined that the errors in the transaction are a result of non-compliance of company policies it may be cause for suspension or termination from the company.
- g) In disputes between agents, any written agreement that was created to handle the dispute will prevail.

8.12 Internet & Social Media Guidelines

Social media is changing the way we work, offering a new model to engage with customers, colleagues, and the world at large. We believe this kind of interaction can help you to build stronger, more successful business relationships. And it's a way for you to take part in global conversations related to the work we are doing at Fathom Realty. However, we have established some parameters for how you can use social media in a way that will protect both yourself and the Firm in the social space.

State laws governing Real Estate Brokerages may vary slightly in language, but all states require that advertisements for the sale, purchase, exchange, rent or lease of real estate by a licensee conspicuously indicate that it is an advertisement of a broker or brokerage firm. Business internet advertising – on social media sites, real estate blogs, wikis, and websites, etc. – must include the Firm name, clearly revealing your professional real estate affiliation with Fathom Realty. While the firm name must appear and be conspicuous, Agent's are not permitted to use the trademarked term "Fathom Realty" or any variation thereof (state corporation titles such as Fathom Realty Texas) in the TITLE of your blog, Facebook business page, website, online group, LinkedIn profile, Wikis, or other social media platform. Doing so would create the illusion that the content and author is representing Fathom Realty in an official capacity. Fathom Realty has always desired to provide our agents the opportunity to brand themselves and their business, and these guidelines reinforce our emphasis on this type of branding. While Fathom agents may choose to highlight their affiliation with Fathom Realty in the content that you share, you are not permitted to act on behalf of the Firm by creating a profile, page, blog, etc. that creates the perception that it is operated by the Firm.

The following examples illustrate what **IS NOT** permitted and what **IS** permitted.

A Facebook business page, website, online group, LinkedIn profile, Wiki, email address or other social media platform that **IS NOT** permitted for an agent to create:

- **Fathom Realty – Sam Smith Team**
- **Fathom Realty – Suzy Smith**
- **Fathom Realty Suwannee**
- **Fathom Realty Wyoming**
- **Fathom Realty Fantastic Homes, LLC**
- **Fathom Realty Best Agents**
- **Fathom Realty Coming Soon**
- **Fathom Realty Northeast**
- **Email: FathomRealtyNewEngland@gmail.com**

Examples of what **IS** permitted:

- **The Smith Team of Fathom Realty**
- **The Smith Team with Fathom Realty**
- **Suzy Smith, Broker with Fathom Realty**
- **Mary Smith Team with Fathom Realty, Dallas Fort Worth Specialists**
- **Email: SuzySellswithFathomRealty@gmail.com**

REMEMBER: In the description and branding on your site (etc.) you must include Fathom Realty. These terms and conditions apply for ALL third-party sites: websites, blogs, email, social media pages, etc.

All pre-existing email addresses/sites/profiles/pages/wikis/etc. that are not compliant with these terms and guidelines, must be modified immediately to ensure the titles and content comply with these terms OR the site/profile/page/email/wiki/etc. must be removed immediately.

It is important to note that some state laws and NAR specify additional terms regarding the use of the term “Realty” in a business title. It is the agent’s responsibility to ensure that all branding and advertising are within the allowable parameters provided by all governing entities.

The following additional guidelines are provided for participating in social media as an Independent Contractor with Fathom Realty. These guidelines pertain are for you if you are creating or contributing to real estate blogs, wikis, social networks, virtual worlds, or any other kind of social media.

1. Disclose

Your honesty—or dishonesty—will be quickly noticed in the social media environment. Please represent yourself, Fathom Realty, and your profession as a REALTORTM ethically and with integrity.

- **Be transparent:** Use your real name, identify that you work for Fathom Realty, and be clear about your role.
- **Be truthful:** If you have a vested interest in something that you are discussing, be the first to point it out and be specific about what it is. Also, do not use material that is copyrighted.
- **Be yourself:** Stick to your area of expertise; write what you know. If you publish to a website outside Fathom Realty, please use a disclaimer something like this: “The postings on this site are my own and don't necessarily represent Fathom Realty’s positions, strategies, or opinions.”
- **Be up to date:** If you are leaving Fathom Realty, please remember to update your real estate affiliations and information on social media sites.

2. Protect

Make sure all that transparency doesn’t violate client confidentiality or legal guidelines for commercial speech—or your own privacy. Remember, if you’re online, you’re on the record—everything on the Internet is public and searchable. And what you write is ultimately your responsibility.

- **Don't tell secrets:** Never reveal confidential information - client or Fathom Realty corporate. If you’re unsure, check with the Fathom Realty corporate office. Please respect brand, trademark, copyright, fair use, and trade secrets. If it gives you pause...pause rather than publish.
- **Don't slam the competition (or Fathom Realty):** Play nice. Anything you publish must be true and not misleading, and all claims must be substantiated and approved.
- **Don't over share:** Be careful out there—once you hit "share," you usually can’t get it back. Plus being judicious will help make your content more crisp and audience-relevant.

3. Use Common Sense

Perception is reality and in online social networks, the lines between public and private, personal and professional are blurred. Just by identifying yourself as an agent at Fathom Realty, you are creating perceptions about your expertise and about Fathom Realty. Do us all proud.

Add value: There are millions of words out there—make yours helpful and thought-provoking. Remember, it's a conversation, so keep it real. Build community by posting content that invites responses—then stay engaged. You can also broaden the dialogue by citing others who are writing about the same topic and allowing your content to be shared.

Keep it cool: There can be a fine line between healthy debate and incendiary reaction. Try to frame what you write to invite differing points of view without inflaming others. And you don't need to respond to every criticism or barb. Be careful and considerate.

Did you screw up? If you make a mistake, admit it. Be upfront and be quick with your correction. If you're posting to a blog, you may choose to modify an earlier post—just make it clear that you have done so.

Participation in social computing as a Fathom Realty agent is not a right but an opportunity, so please treat it seriously and with respect. Failure to abide by these guidelines could put your affiliation with Fathom Realty at risk.

8.13 Personal Agent Websites & Email

On personal business websites, the following terms apply:

- The REALTOR® logo must be used in accordance with the policies of the National Association of REALTORS®
- The website must have an email privacy statement.
- It is the Agent's responsibility to ensure that the listings and marketing information is updated and managed, especially listings shared with other sites.
- PhotoShop (or image software) may not be used to alter photos on the websites or in the MLS that would give a deceptive picture of the property. An exception to this policy is virtually staged images that are permitted by the local MLS & Board when those images are properly and accurately disclosed in the listing.
- Unauthorized framing of content is a serious concern and Agents must get permission from the other website before framing the content.

Domain names: The purchase of domain names must abide by the SOP-12-12 of the NAR Guidelines which states that REALTORS® shall not:

- 1) Use URLs or domain names that present less than a true picture, or
- 2) Register URLs or domain names which, if used, would present less than a true picture. If you have a domain name that violates this standard you MUST notify the brokerage immediately and take corrective action.

Company Email:

- 1) As in faxing, the licensees need to have a system by which a consumer can opt out from receiving emails, advertisements, and other forms of marketing through the internet. This would include e-newsletters and other promotions.

- 2) No one shall, from a company email address (i.e., johnsmith@fathomrealty.com) forward any chain letters, cartoons, etc. or participate in any on-line contest or promotion.
- 3) Email Confidentiality: Users should be aware that email is NOT a confidential means of communication. The company cannot guarantee that electronic communications will be private. Emails can be forwarded, intercepted, printed, and stored by others. Users should also be aware that once an email is transmitted it may be altered. Email must have the correct company information in the signature box.
- 4) Email messages that related to a real estate transaction need to be saved and we recommend that they be uploaded to the transaction management system for safe keeping. It is imperative that ALL emails be saved in case the transaction is ever in dispute.

8.14 Vacations / Absentee Agents

- a) You will want to arrange for a fellow agent to assist you with your business when you are unavailable. All arrangements between agents as to the handling of buyers, seller and the resulting commission division, will be in writing prior to the consummation of the transaction and will be agreed upon between agents.
- b) The details of that written arrangement are entirely between you and your appointed sales associate. A copy of your arrangement will be given to your Broker. If no arrangements are made the Company policy will be:
 1. Agent B shows homes for Agent A and the client buys a home, Agent A will share 20% of commission with Agent B.
 2. If Agent B lists a home for Agent A, Agent B will receive 20% of listing commission.
 3. It is important to help other associates in order to keep the client satisfied. Agents are much more willing to help out in a professional manner if they are being compensated for their time.

The Broker may be available to assist in covering your closings and offer presentations on listings.

8.15 Affiliate Business Disclosures

- a) Per RESPA, we are required to disclose any affiliated business relationships to our clients when we recommend a service provider to them in which Fathom and/or owners may benefit financially when a client elects to use their services. If you need an approved affiliated business disclosure form please contact your District Director.
- b) This same disclosure requirement applies to individual agents who recommend a service provider if they will personally benefit financially when a client elects to use those services. For example, if an agent is also a licensed loan officer and handles the loan for the Fathom Realty client, this would be a required disclosure situation. Agents will be responsible for using an affiliated business disclosure form to properly disclose all affiliated business relationships.

8.16 Concealed Weapons

Fathom Realty allows concealed weapons to be carried by agents during the conduct of business in accordance with local/state laws if the agent is licensed and authorized to carry a weapon by the applicable governing agency. This policy applies to all persons on the premises, including employees and licensees of the Company. Local, state, and national laws governing the carrying and concealment of weapons supercede company policy and agents are to abide by said laws.

Section 9.0 Commission

9.1 Commission Splits

Fathom Realty provides one of the most competitive commission plans in the industry. Each agent will have their commission split identified in their independent contractor's agreement shown on Schedule A.

9.1.1 Team Commission Splits

The Team Leader shall set a commission split with their Team Members in addition to the company Transaction Fee on all closed and funded transactions. Team Commission Splits are between the Team Leader and the Team Member but must carry a minimum split of 90/10 (ex. 95/5 split not allowed.) Fathom will disburse the established split at each transaction closing.

In the event that a Team Leader dissolves the Team or leaves the Firm, all Team Members on that team will default to an Individual Fathom Agent Plan and applicable fees for the corresponding plan will apply. It is the responsibility of the Agent/former Team Member to ensure they have a current Individual Plan Schedule A on file with the Company. In the event that an Individual plan has not been executed at the time of closing, the default fee schedule for the individual plan (currently referred to as "The Gold Plan" (subject to change)) will apply.

9.2 Commissions Payable

- a) The compensation structure is set forth in the Schedule A (to the Agent Agreement). Agent's compensation shall be payable for closed transactions only. Agents shall not draw or borrow against any compensation payment from the Broker. The agent authorizes Broker to deduct any outstanding amounts due and owed by the agent to the Broker or other entity, including but not limited to participation fees, commission splits, transaction fees, insurance premiums, other business-related expenses, irrevocable commission disbursement instructions from a commission advance company, and local, state, and federal child support and/or tax orders that order the garnishment of wages. When an agent is past due in amounts owed to Fathom or other entity, all compensation to the agent will be paid through the Market Center.
- b) No Fathom agent is permitted to represent both the buyer and seller on the same transaction (Dual Agency) without permission on a case-by-case basis from the

Broker. As a company policy, Fathom Realty Agents are not allowed to represent both sides in any commercial transactions – sales or leases. Instead of practicing Dual Agency, the Company recommends the Broker appoint another agent to represent one of the parties (Designated Dual Agency). The originating agent can do the bulk of the work and receive the bulk of both sides of the commission with the newly appointed agent receiving a courtesy fee.

- c) Only licensed sales associates can be paid a commission. Any unlicensed assistants must be paid salaries, or per file by their supporting agent.
- d) The Agent is responsible for uploading all transactional paperwork within 48 hours of execution date. Agent is responsible for submitting the transaction for review and approval at least 3 to 5 business days prior to closing. Failing to submit paperwork in accordance with company policy is a violation and may result in a delay in closing and the processing of commission disbursements, and/or result is all compensation being paid through the Market Center.

9.3 Adjustment In Commission

In the opinion of the agent, if a concession (lowering of commission or paying for repairs for example) is required to maintain and assure the transaction closes, said commission will come from the agent's portion of the commission. Fathom will apply the company split on the total commission rate earned and the agent will be solely responsible for the full amount of the concession on company leads as it differs from the commission listed on the agency agreement with the client.

9.4 Rental And Leasing Fees

The brokerage fee received by Fathom in connection with the lease or rental of property will be split with the associate according to their commission plan as shown in the Schedule A to the Agent Agreement.

9.5 Referral Fees

- a) Agent to Agent Referral fees received by Fathom will be paid according to the referral fee transaction fee annotated on the Schedule A.
- b) Referral fees paid out to agents both within and outside of Fathom Realty will be annotated on the CDA and paid by the closing entity.
- c) For referral fees coming through the company, a nominal administrative fee will be charged to cover the costs the company incurs in processing the checks. Refer to your Schedule A.

9.6 Bonuses

For all personal leads, any bonuses paid by sellers or builder will be paid to the agent 100% and are not subject to a company split. Transaction fees or commission splits will not be applied to income received by the agent above the percentage commission indicated in the MLS.

9.7 Deferred Commissions

Deferred commissions are not encouraged and require prior Broker approval in all cases. The decision to defer a commission, in whole or in part, may become a factor in putting a complicated sale together. For this reason, the listing/selling agents, Broker, and sellers as applicable, should be involved in drawing up the deferred commission agreement or have an attorney prepare a promissory note which will be recorded. A schedule of payments should be included in that document.

9.8 Right Of Company To Adjust Commissions And/Or Settle Claims, Disputes Or Litigation with The Public

- a) Prior to funding a transaction, all commissions paid or due are subject to negotiating to settle claims, disputes, or litigation.
- b) The Company, at the advice of our Errors and Omissions carrier, has sole discretion as to actions taken regarding claims, disputes or litigation.
- c) The sales associate agrees to immediately inform his/her Broker of all pending or possible disputes, mediation, grievances, or litigation with the public and/or other brokers. Generally, this occurs at the first notice in writing.

9.9 Inter-Company Disputes

- a) If two or more sales associates of the Company have a dispute, it is recommended that the sales associates address the problem in person before getting company leadership involved.
- b) When necessary, all parties to the problem will meet with the Broker and discuss the possible solutions to the problem. **Discussion among staff or with agents who are not a party to the dispute is inappropriate.**
- c) The public should not be involved in the event of disputes between sales associates. Register any disputes with your Broker. If an agreeable solution cannot be reached, the associate may request arbitration/mediation. If the sales associate takes a separate action outside these policies, that sales associate will be responsible for any expense incurred.

9.10 Outside Broker Disputes

- a) In the event of disputes with other companies, your Broker is to be notified immediately. In the case of a dispute that cannot be negotiated satisfactorily between the companies involved, the case will be submitted to the Arbitration Committee of the BOARD of REALTORS. All disputes must have management approval prior to submission to the Board. **Discussion among staff or with agents who are not a party to the dispute is inappropriate.**

- b) With the advent of mediation services, the Company would reserve the option of requesting mediation instead of the Arbitration Committee of the BOARD of REALTORS.

9.11 Conducting Business in Multiple Fathom Markets

- a) For states in which we have multiple Fathom branch offices, an Agent will be permitted to conduct up to 3 transactions in another Fathom market (with separate MLS area) and they will run all of their transactions through their currently assigned District Director/Managing Broker. The Agent's current commission plan will apply to those transactions and the fees paid to their current market center will cover those transactions as well.
- b) Once an Agent/Team goes above 3 transactions, they are required to get a secondary affiliation with the District Director in the market in which they are performing more than 3 transactions. With this secondary affiliation, the Agent/Team Leader will pay the secondary market center all fees owed and sign an agent agreement/Schedule A for that market. All transaction paperwork will go through the District Director for the market in which the transaction closes.
- c) An Agent/Team can be on different plans in different markets (meaning they can be on Platinum in their primary market, and Gold in their secondary market).
- d) If an Agent starts a Team (hires a Team Member) in another Fathom market to perform business on their behalf in that market, then the Firm views this as the team opening an office and the Team Leader would be required to do a secondary affiliation under the second market center and pay dues to that local market center in addition to their primary market center. When an office is established, all transactions will go through the District Director in the market where the transactions are closing.

NOTE: Most, if not all, states require that a Managing Broker/BIC be a member of the board in order for an agent to join a local board/MLS. If a Fathom agent requires access to the local MLS in which their primary BIC is not a member, they will need to establish a secondary affiliation with the BIC in that market. In this case, the up to 3 transactions policy would still apply.

This policy only applies to an agent that is working deals in the same state. Crossing state borders requires that agent's license to be held under another Broker or else they can only receive payment as a referral and cannot actually prepare the paperwork so that business will have to be referred out.

Section 10.0 Advertising

10.1 Advertising Policy

Real estate licensees may not advertise or offer to conduct a real estate transaction without first obtaining a written listing agreement, and in addition, all advertising (including site signs, internet, etc.) shall clearly identify the real estate company.

The following policies apply to all property listed with this company:

- a) This company adheres strictly to the REALTOR® Code of Ethics (REALTORS® ONLY) regarding advertising. Agents shall be careful at all times to present a true picture in their advertising and representations to the public.
- b) No Associate shall advertise to sell, purchase, exchange, rent or lease a property in a manner indicating that the advertiser is not engaged in the real estate business.
- c) No advertisement by a licensee shall direct responses to only post office box number, telephone number, and/or street address.
- d) Every Associate shall affirmatively and unmistakably indicate in any advertising that he is a licensed real estate agent.
- e) All Associates shall advertise under the Company name offers to purchase, sell, rent, or lease any property. All advertising must be under the direct supervision of the Broker.
- f) No Associate shall post a sign on any property for which he does not have an active written authorization from the owner.
- g) No property will be advertised in any way without a signed written listing agreement on file with the Broker (District Director). The listing agreement in the hands of the agent is not sufficient. If a listing agent has a listing he/she wants to advertise, the original or a fax of the original must be uploaded to the transaction management platform.
- h) One party listing agreements (also called "one-shots" or "one-time listings") will not be discussed, orally or in writing, with any person outside of the company unless a signed one party listing agreement is obtained.
- i) A listing which is due to expire by the publication date of a newspaper or magazine ad will not be inserted into the ad unless a written extension of the listing is received by the Broker before the deadline for placing the ad.
- j) No price changes or other substantive changes to the listing will be advertised unless a written change of the price or other appropriate information is received by the Broker before the deadline for placing the ad.
- k) Information on features of the property will not be advertised as "new" unless substantiated by written receipts or other evidence of payment from the owner showing the date the work was done. If the verification is received, it will be advertised with the appropriate date. If the verification is not received, the listing agent must use other words such as "newer" or "recent" to describe the feature.

- l) Agents should take special care to follow these same rules in the use of "special feature" sheets. If an agent does not follow this policy regarding any information sheets or other documentation/advertising the agent prepares, the agent will be solely liable for errors or omissions that later cause any losses.
- m) "For Sale" signs and lock boxes will be removed immediately upon expiration or withdrawal of a listing.
- n) The Company's policy (NOTE: Also in the REALTOR® Code of Ethics), prior to closing, is that only the sold sign of the listing broker is allowed on the listing, unless the listing agent consents otherwise. After the closing has taken place, the cooperating broker may also post a sold sign. Either the listing broker or the cooperating broker may claim to have sold the property in advertising and representations to the public.
- o) Personal advertising by individual agents is encouraged. The Broker must approve all personal advertising. The Firm requires that the salesperson include the company name (the Broker may require additional information such as telephone number, the salesperson's name and/or telephone number.) This policy covers all types of salesperson advertising, including personal sign riders, business cards, car signs, homes magazine ads, classified ads, direct mail solicitations, specialty items (key chains, pens, pads, etc.), newsletters, farming materials, neighborhood newsletters, billboards, etc. This list does not include all possible types of salesperson advertising. One possible problem may exist in the use of a salesperson's first name only in advertising. The Firm's policy is that the salesperson or licensee's "name" means the full name of the person and not just a first name, initials, or a first name with last initial. Without the full name, the public cannot identify the person doing the advertising. Use of first names, initials, or first name with last initial only in salesperson advertising is not allowed.
- p) Any advertising containing financial terms of the offering must comply with federal Truth in Lending laws, also known as Regulation Z. Regulation Z requires that all of the terms of the financing be stated if any of the "triggering terms" are used. "Triggering terms" are terms such as the amount of down payment ("10% down"), the amount of any payment ("Only \$550 per month"), the period of repayment ("40 year loan available") or the number of payments ("Only 48 monthly payments").

If any of these terms are used, the following disclosures are required:

1. Amount or percentage of down payment.
2. Terms of repayment.
3. Annual Percentage Rate, stated and calculated as such.

Use of any interest rate in advertising is not allowed. Only the Annual Percentage Rate, stated and calculated as such is allowed. Therefore, a property cannot be advertised as having a "7% assumable VA loan."

Not all terms trigger Regulation Z disclosure. Some examples of terms which can be used without triggering Regulation Z disclosure are "No down payment", "Financing Available" or "Special Financing", or "Assumable Loan".

10.2 Signs

- a) Yard signs are an important source of prospects and should be installed (with seller permission) on all homes listed for sale within 48 hours after the seller signs the listing agreement. Personal name sign riders are important for directing calls.
- b) Sale Pending riders on signs advertise your success. Please use them after all contingencies (including financing) are removed. It is also advisable to leave your name rider up while the sale is pending.
- c) No associate may remove another associate's name rider from a sign.

10.3 Fair Housing Advertising Policy

EQUAL OPPORTUNITY SLOGANS AND LOGOS

Associates shall use the Equal Opportunity slogan or logo in all advertising. Associates shall use publications which reach large audiences and does not limit to a small select audience.

PROHIBITED ADVERTISING LANGUAGE

Advertising copy used by Associates must describe the property, NOT THE DESIRED BUYER OR TENANT.

Examples of prohibited advertising language are:

- a) Race, color, national origin: Real estate advertisements may not state a discriminatory preference or limitation on account of race, color, national origin or any other protected class, and shall not describe the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms. However, Associates may use phrases such as "master bedroom", "rare find" or "desirable neighborhood."
- b) Religion: Associates shall not use advertisements which contain an explicit preference, limitation or discrimination on account of religion. Advertisements which use the legal name of an entity which contains a religious reference (i.e., Sisters of God Catholic Home) or a religious symbol (such as a cross) must contain an appropriate disclaimer against any religious preference or limitation. Associates may use descriptions of the property (apartment complex with chapel) or the services (kosher meals available), and terms (Merry Christmas or Happy Easter) or symbols (Santa Claus or Easter Bunny) relating to certain religious holidays.
- c) Sex: Associates shall not advertise single-family dwellings or separate dwelling units in multifamily housing in a manner that explicitly indicates a preference, limitation or discrimination on the basis of sex. Associates may, however, use terms such as "master bedroom," "mother-in-law suite" and "bachelor apartment" which describe a property type.

- d) **Handicap:** Associates' real estate advertisements shall not contain exclusions, limitations or other indications of discrimination based on handicap. Associates may describe the property (great view, fourth floor walk-up, walk-in closets), the services or facilities (jogging trails), the neighborhood (walk to the bus stop), the conduct required of residents (nonsmoking), and accessibility features, such as a wheelchair ramp.
- e) **Familial Status:** Associates shall not place advertisements that contain limitations on the number or ages of children or state a preference for adults (unless the property meets the housing for older persons exemption), couples or singles. Associates may use descriptions of the property (two bedroom, cozy, family room), services and facilities (no bicycles allowed) or neighborhoods (quiet streets).

Section 11.0

Personal Assistants

11.1 Introduction

Personal assistants fall under (2) categories: licensed and unlicensed. What services an assistant can or cannot provide are totally dependent upon whether the assistant is licensed or unlicensed. According to the NAR 2001 Membership Profile, 45% of members have personal assistants who are independent contractors. Because most real estate professionals work as independent contractors, it's tempting to put your assistant in the same category. One important thing to consider is that real estate practitioners are classified as "statutory independent contractors" by the IRS if they meet 3 criteria – licensure, compensation based on sales or output, and a written agreement with the person for whom the service is performed.

UNDER NO CIRCUMSTANCES will unlicensed office personnel be allowed to engage in acts for which a real estate broker or salesman's license is required (NCGS Section 93A-2).

11.2 Independent Contractor Or Employee?

Do not assume that the personal assistant who holds a real estate license can automatically qualify as independent contractor. The IRS has set up 20 criteria to determine if your assistant can be qualified as an independent contractor. If your assistant can answer yes to any of the following they are probably an employee.

1. Are you required to comply with instructions on when, where, and how to perform work?
2. Is training provided?
3. Are your services integrated into the general business operations?
4. Must you render the service personally?
5. Does the person for whom you work hire, supervise, and pay other people to assist you with work?
6. Are there set work hours?
7. Do you have a continuing relationship for the person for whom you work?
8. Must you devote substantially full time to work?

9. Is the work performed on the employer's premises?
10. Must you perform services in a set sequence?
11. Must you submit oral or written reports regularly to the person that you work for?
12. Are you paid by the hour, week, or month?
13. Are your travel and business expenses paid for?
14. Do you supply the tools, materials, and equipment needed to perform the work?
15. Can you be discharged at will?
16. Can the you terminate the relationship without incurring liability?
17. Do you invest in facilities used to perform the work, such as an office?
18. Can you realize both profit and loss?
19. Can you work for more than one company at a time?
20. Can you make services available to the general public?

Keep in mind that just because you sign an agreement with personal assistants stating that they are independent contractors doesn't mean that the IRS will agree with you. For more information, on rules for determining if a worker of an employee, download the Employer's Supplemental Tax Guide. You can also submit your job description to the IRS for a ruling using Form SS-8. If you determine that the assistant is an independent contractor, the assistant must sign an Independent Contractor Agreement.

11.3 Sample Assistant Policy

A sample personal assistant policy can be found in [Don't Risk It! A Broker's Guide to Risk Management](#), published by the NAR. Also check with your state's Real Estate Commission Rules and Regulations to affirm what a licensed vs. unlicensed assistant can or cannot do.

11.4 Contracts Required

All agents who have assistants must have contracts in place between the agent and the personal assistant. Outline the topics to be covered in the contract. Consider which contracts are appropriate. A copy of the contract must be given to the Broker.

1. Agreement for licensed assistant between the licensee and assistant
2. Agreement for unlicensed assistant between the licensee and assistant
3. Agreement between broker and affiliated licensee for the use of a licensed assistant
4. Agreement between broker and affiliated licensee for use of unlicensed assistant
5. Agreement between the broker and the licensed assistant
6. Agreement between the broker and the unlicensed assistant

Consider the following terms regardless of the type of contract:

1. Capacity of the assistant...i.e. licensed vs. non-licensed
2. Work the assistant is authorized to perform per license law of your state
3. Work the assistant is not authorized to perform per license law of your state
4. Commencement term and termination terms of the agreement
5. Relationship between the licensee and assistant
6. Compensation means

7. Confidentiality clause
8. Can the agreement be assigned
9. The fact that the entire agreement supersedes any and all agreement
10. The fact that the laws of the state govern the actions of the licensee.
11. Disclaimer stating the unless provided in writing the licensee and assistant are not employees of the broker.
12. Reporting requirements as per taxes....you is responsible for such reporting?
13. Liability for the acts of the assistant

11.5 Duties of an Unlicensed Assistant

1. Deliver documents and pick up keys
2. Answer the telephone and forward calls
3. Secure public information from courthouse, utility companies, etc
4. Provide courier services
5. Schedule appointments with other offices, existing clients, or customers
6. Place signs on property
7. Type forms for approval by licensee and supervising broker
8. Write ads for approval of licensee and supervising broker, and place classified advertising
9. Assemble documents for closing
10. Hand out objective, written information on a listing
11. Transmit listings and changes to a multiple listing service
12. Follow up on loan commitments after a contract has been negotiated
13. Assemble documents for closing
14. Have keys made for company listings
15. Deliver earnest & or option money
16. Order items of routine repair as directed by licensee and/or supervising broker
17. Host or be the Hostess to an open house with limitations listed below

11.6 Duties Prohibited By Unlicensed Assistants

1. Discuss price or square footage or give legal opinions.
2. Show property
3. Answer any questions on listings, title, financing, closing, etc
4. Discuss or explain a contract, agreement, listing or other real estate document with anyone outside the brokerage company
5. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings or sales.
6. Negotiate or agree to any commission, commission split or referral fee on behalf of a licensee.
7. Solicit by telephone or in person potential sellers, purchasers, tenants or landlords
8. Give additional information not included in prepared written promotional material that has been distributed to the public
9. Represent himself or herself as an agent for a real estate broker or the owner/seller of a property
10. Negotiate or discuss the terms of a sale

11. Act as a go-between with a seller and a buyer
12. Answer questions concerning properties listed with the firm, except to confirm that the property is listed and identify the listing broker or salesperson.

11.7 Office Policies Pertaining to Assistants

All office policies and rules must apply to personal assistants just as they apply to the licensee.

Section 12.0 Sexual Harassment

12.1 Position Statement

Fathom Realty does not tolerate sexual harassment of any kind. Agents must avoid offensive or inappropriate behavior at work, and are responsible for assuring that the workplace is free from sexual harassment at all times. Fathom Realty prohibits un-welcome sexual advances, requests for sexual acts or favors, with or without accompanying promises, threats, or reciprocal favors or actions, or other verbal or physical contact of a sexual nature, which creates a hostile or offensive working environment. Complaints of sexual harassment will be promptly and carefully investigated, and every Agent is assured that they will be free from any reprisal or retaliation from filing such complaints. Agents are also assured that the privacy of the complaint and the person accused of sexual harassment will be kept strictly confidential. Any Agent who has a complaint of sexual harassment at work by anyone should immediately bring the complaint to the attention of the Broker. Office investigations will include interview with all relevant persons, including the complainant, the accused, and other potential witnesses. The Broker will review findings with the complainant at the conclusion of the investigation. If the investigation reveals that the complaint appears to be valid, immediate and appropriate corrective action, up to and including termination, will be taken to stop the harassment and prevent its reoccurrence. If the validity of the complaint cannot be determined, immediate and appropriate action will be taken to assure that all the parties are acquainted with this sexual harassment policy and to avoid sexual harassment in the future. This policy applies to harassment of any kind.

12.2 Definition

Equal Employment Opportunity Commission defines Sexual Harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature” when acquiescence is a condition of getting or keeping a job, a promotion, or a pay increase (quid pro quo harassment) or when it substantially interferes with employees’ ability to do their work (harassment that creates a hostile work environment).

12.3 Procedures for Reporting Harassment

If you believe you have been harassed, notify your Broker/District Director or anyone on the Leadership Team to include the CEO. Though a written complaint is not required, you must provide details about the dates, times, places, and witnesses to the harassment. All complaints will be investigated promptly.

The identity of the employee making the complaint as well as the identity of the individual accused of sexual, ethnic, racial, or religious harassment will be kept confidential. Information regarding the charge of sexual harassment and the investigation of that charge will not be made known to anyone who is not directly involved either as a party, a witness, or a member of the investigating team. Witnesses will be interviewed to elicit their observation and other relevant information. The alleged harasser will be interviewed as well. If the person concedes to the conduct, no further investigation may be needed.

- a) Throughout the investigation of the alleged charge all parties will keep all information completely confidential and not discuss the situation with anyone other than the supervisor or broker.
- b) If your complaint of harassment is found to be totally and completely without basis, appropriate measures may be taken against you. This should not discourage you from making a complaint if you believe you have been a victim of sexual, racial, religious or ethnic harassment.
- c) If the complaint of harassment is found to be valid the company attorney will be contacted to assist in the actions of the broker. The following steps are the customary steps the brokerage will follow:
- d) If sexual harassment DID occur:
 - 1. An appropriate penalty should be imposed that could include disciplining, suspending, or firing the harasser.
 - 2. Corrective action should be documented and the complainant informed that action was taken
 - 3. If the individuals continue to work together, the complainant should also be instructed to report recurring or continuing harassment, and a supervisory employee should monitor the situation

18. If sexual harassment DID NOT occur:

- 1. If an investigation proves inconclusive or no harassment is found, confidential letters should be issued to both the complainant and the alleged harasser informing them of the results of the investigation.
- 2. The alleged harasser should be told that any retaliation against the complaining employee may be the basis for possible disciplinary action against him or her.
- 3. If a determination is made that the complaint was clearly frivolous the complainant may face disciplinary action.

BROKER'S NOTE: Equal Employment Opportunity Commission has free literature on preventing sexual harassment. For free literature on preventing sexual harassment call 800 669 3362. If you have specific questions, contact EEOC at 800 669 4000 for the office nearest you. A model employment policy prohibiting sexual harassment can be found at www.michbar.org/sbm/harass.html. Be careful to substitute "Michigan language" with your state law.

Section 13.0**Arbitration and Ethics Hearings****13.1 Cost**

The cost of the arbitration filing fee will be the agent's responsibility.

13.2 Unpaid Commissions

Any unpaid commissions that are in dispute will be held by the Brokerage Company until an agreement has been reached.

13.3 Ethics Hearings

If an agent is determined to have practiced unethical actions, this may be grounds for suspension or termination.

13.4 Costs of the Hearing Results

In both a defendant and complainant situation, arbitration and ethics hearing costs such as awards, legal fees, etc. will be paid by the agent unless the broker is proven to have some liability in which case the fees will be split between the parties.

13.5 Confidentiality

An agent will not discuss any ethics or situation of conflict with an attorney without the Broker being aware of the situation or conversation.

Section 14.0**Government Regulations to Be Followed****14.1 Fair Housing**

Fathom Realty will not tolerate any violations to the Fair Housing Law. Breaking those laws will be cause for immediate termination of the association.

Agents agree to:

- a) Provide service without regard to race, color, religion, national origin, sex, handicap, or familial status. Many states and localities have additional protected classes. Make sure you check for those.
- b) Keep informed as to changes of the law
- c) Be inclusive in all advertising
- d) Inform clients of rights with printed materials and conversations
- e) Document efforts to provide professional service
- f) Refuse to tolerate non-compliance
- g) Learn about people who might be considered different by attending classes on working with multi cultural clients, for example

- h) Take a positive approach to fair housing and follow spirit and letter of the law
- i) Be aware of discriminatory lending practices and report them
- j) To abide by the attached Fair Housing Laws found in the appendix

14.2 Do-Not-Call Policy

The Agent will be responsible for accessing the Registry.

Overview: In response to the Federal Communications Commission Report and Order Adopted on June 26, 2003 addressing the Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Fathom Realty will establish and adhere to office procedures designed to demonstrate and ensure a good faith effort to comply with the national do-not-call rules.

By adoption and utilization of these compliance procedures, as well as all other necessary steps, Fathom Realty will benefit from the “safe harbor” provisions of the national do-not-call rules, and will therefore not be liable for violations of the rule which are the result of error.

Required Procedures:

All individuals, employees, and affiliates telemarketing on behalf of the company or individual listed above shall comply with the national do-not-call rules and additional office procedures listed below:

1. All agents, when making a solicitation call, shall comply with the National do-not-call rules effective October 1, 2003.
2. The National do-not-call list itself will be available at www.donotcall.gov. Or www.FTC.gov All agents shall maintain a record listing the do-not-call numbers. Furthermore, all agents shall “scrub” (update) that record at least once every month.
3. Agents shall check the record before making any solicitation call.
4. Agents shall not call any telephone number contained on the record, unless they fit within one of the exceptions listed below. This applies to all calls.
5. Agents may call any telephone number not listed on the record, but if the individual called asks to be placed on the “company” do-not-call list, agents shall honor their request, place their number on the record, and refrain from calling them in the future.
6. Agents shall allow the phone to ring for 15 seconds or four rings before disconnecting any unanswered call.
7. Agents shall transmit caller ID information for each call and shall not block the caller ID information.
8. Agents shall obtain express written permission before sending faxed advertisements.
9. Agents may call individuals whose number is recorded on the list if the agent has an “established business relationship” with them. The “established business relationship” exception allows agents to contact any client with whom they are currently conducting business, and extends for a period of 18 months from the consummation of their last transaction. It also allows agents to contact those

who have made an application or “inquiry” with them for a period of 3 months following their inquiry.

10. The established business relationship exception extends to all affiliated companies, employees or agents of the company if they are offering a service related to the type of service the company originally rendered.
11. Agents may call individuals whose number is recorded on the list if that agent has received explicit **written** permission to do so. The written permission shall be signed, and shall include the telephone number to which calls may be placed.
12. Agents may call individuals with whom they have a “personal relationship,” which means those “personally known” to them such as family members, friends, and acquaintances. Note: in the case of a referral, it is not sufficient that the individual referred have a relationship with the referring source; the exception only applies to the marketer individually and his or her personal relationships.
13. If agents call anyone under one of these exceptions, and the recipient of the call asks to be placed on the company do-not-call list, then that agent shall honor their request, place the number on the company do-not-call list, and refrain from calling them in the future.
14. Agents shall read the national do-not-call rules once each year.
15. Agents shall comply with all sections and requirements contained in the national do-not-call rules, including those not listed in these procedures.
16. Agents shall participate in training on these procedures and the national do-not-call rules when offered by the company.
17. Agents shall make a good faith effort to comply with the national do-not-call rules at all times.

14.3 RESPA

Real Estate brokers and agents must comply with the Real Estate Settlement Procedures Act, (RESPA). Violations of RESPA will not be tolerated at Fathom Realty. Anyone found violating the rules will be terminated. The following actions are allowed:

- a) Allows a title agent to provide, during an open house, a modest food tray in connection with marketing information
- b) Allows a home inspection company to sponsor association events when the representative from the company also attends
- c) Allows you to jointly advertise with a mortgage broker if you pay a share of the costs in proportion with your prominence in the ad
- d) Allows a lender to pay you fair market value to rent a desk, copy machine and phone line in your office to pre-qualify applicants
- e) Allows a hazard insurance company to give you marketing materials such as notepads, pens and desk blotters which promote the hazard insurance company’s name
- f) Allows a title agent to pay for your dinner when business is discussed, provided that such dinners are not a regular occurrence.

For additional information about RESPA laws, visit: www.realtor.org/RESPA

14.4 Lead-Based Paint

All Associates are required to fully comply with the requirements of the federal lead paint disclosure laws in all transactions where the law requires compliance. Penalties available under the law include triple damages plus attorney fees.

Disclosure Requirements

The federal disclosure rules specifically require that sellers and landlords of most residential housing built before 1978 must:

1. Disclose the presence of known LEAD-BASED PAINT and LEAD-BASED PAINT hazards
2. Provide buyers and tenants with any available records or reports about any LEAD-BASED PAINT present in the housing
3. Provide buyers and tenants with a federally-approved lead hazard information pamphlet

Offers to purchase and leases must contain certain disclosures and acknowledgments. Sellers must also provide buyers with an opportunity to inspect for LEAD-BASED PAINT. Finally, real estate agents must ensure compliance with these requirements. The new rules do not require that any testing be conducted for LEAD-BASED PAINT, nor do they require the removal of such paint or hazards.

Properties and Transactions Subject to Lead-Based Paint Rules

The new EPA/HUD requirements for the disclosure of LEAD-BASED PAINT apply to all transactions to sell or rent target housing, subject to certain exceptions. The following discussion specifies what types of residential properties are covered under the new LEAD-BASED PAINT rules and those which are not subject to the rules' requirements.

Target Housing

"Target housing" means any housing constructed prior to 1978, except for housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age lives in or expects to live in such housing), and except for any "0-bedroom" dwellings.

Excluded Properties:

1. Housing for the Elderly (No Resident Children Under 6). Housing for the elderly means retirement communities or similar types of housing designed specifically for households where at least one person is 62 years of age or older at the time of initial occupancy.
2. Housing for Persons with Disabilities (No Resident Children Under 6). With both housing for the elderly and housing for persons with disabilities, the exclusion from the LEAD-BASED PAINT disclosure rules is lost if children under the age of 6 live there or are expected to live there. The parties to any sales or lease transaction involving housing for the elderly or persons with disabilities where children under 6 live or are expected to live would need to comply with the federal LEAD-BASED PAINT disclosure rules.

3. "0-Bedroom" Dwellings. "0-bedroom" dwellings means residential dwelling units where the living area is not separated from the sleeping area. This includes efficiencies, studio apartments, lofts, dormitory housing, military barracks and rentals of individual rooms in residential dwellings.

Transactions Subject to Lead-Based Paint Rules

Both sales and leases (Includes Subleases & Oral Leases). Subleases are included so that the subtenant or sublessee (i.e., the new tenant) receives the LEAD-BASED PAINT disclosures and information. Informal rental agreements not involving a written lease, for example, oral leases, are included despite the difficulties in complying with the rules requirements during a process handled verbally without written documentation.

Exempted Transactions

1. Foreclosure (sheriff) sales.
2. Leases of Housing Found to be Lead Free. Leasing transactions involving target housing that has been found to be LEAD-BASED PAINT free by a certified inspector are excluded from the LEAD-BASED PAINT disclosure rules. "Lead-based paint free housing" means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.
3. Short-Term Leases of 100 Days or Less (No Renewals or Extensions).
4. Lease Renewals if Disclosures Done and No New Information. LEAD-BASED PAINT disclosures need not be repeated for the renewal or extension of existing leases where the landlord previously disclosed all information required by the rules and no new information concerning LEAD-BASED PAINT on the premises has come to the attention of the landlord. In situations with no formal renewal process involved, i.e., a month-to-month holdover after the expiration of a one-year lease term, "renewal" shall be interpreted to occur at the point where the parties agree to a significant written change in the terms of the lease such as a rent rate adjustment. Then disclosure would be required as to any new LEAD-BASED PAINT information not previously disclosed to the tenant.
5. Purchase, Sale or Servicing of Mortgages.

Agents Covered

"Agent" means agents of sellers, landlords, tenants and buyers except for buyer's agents who receive all of their compensation from the buyer.

Buyer Opportunity to Inspect for Lead-Based Paint

The LEAD-BASED PAINT disclosure rules require that sellers provide buyers with a 10-day opportunity to conduct an LEAD-BASED PAINT risk assessment or inspection of the target housing before becoming obligated under the offer to purchase. The length of time may be shortened or lengthened by mutual agreement of the parties. This requirement does not mean that the buyer must be permitted to conduct an LEAD-BASED PAINT inspection before signing an offer to purchase. This requirement may be met by having an LEAD-BASED PAINT inspection contingency in the offer, similar to the home inspection contingencies typically used in residential offers. There is no mandatory language or provision for this purpose, so the contingency may be negotiated by the parties. Thus, the terms and conditions for the conduct and completion of the LEAD-BASED PAINT inspection or evaluation will be reached by mutual agreement and not by federal mandate. A lead-based paint inspection contingency which is included in the LEAD-BASED PAINT disclosure and acknowledgment addendum to the offer is discussed later. Buyers may choose to waive their opportunity to inspect for LEAD-BASED PAINT. The rules do not contain any requirement for providing tenants with the opportunity to conduct an LEAD-BASED PAINT inspection. Sellers may not reject an offer to purchase simply on the basis that it contains a lead inspection/contingency provision. They may, however, attempt to negotiate the terms and conditions of the provision.

Timing of Lead-Based Paint Disclosures

The rules only identify the latest point at which full disclosure must occur, that is, before the buyer or the tenant becomes obligated under the offer to purchase or the lease.

Agent Responsibilities

Each agent involved in a sale or lease transaction shall be responsible for ensuring compliance with all the requirements imposed by the rules.

To ensure compliance, the agent must:

- a) Inform the seller or landlord of his or her duties to disclose known LEAD-BASED PAINT on the target housing.
- b) Furnish LEAD-BASED PAINT records and reports and the EPA-approved lead hazard information pamphlet to buyers and tenants
- c) Advise the seller that he or she must permit the buyer to have a 10-day opportunity or inspection contingency to conduct an inspection or evaluation of the premises with respect to LEAD-BASED PAINT
- d) The seller and landlord must also be told about his or her duty to certify compliance with these obligations on and retain a copy of a signed LEAD-BASED PAINT disclosure and acknowledgment addendum
- e) Certain specifically-prescribed LEAD-BASED PAINT "Warning Language" must be included in sales contracts and leases
- f) Ensure compliance with all of these requirements Ensuring compliance can be done by making sure that the seller or the landlord has performed all of these required activities, or by personally performing these activities on behalf of that party. If the agent has informed the client about all of his or her obligations under the federal LEAD-BASED PAINT disclosure rule, the agent shall not be liable for the failure to disclose LEAD-BASED PAINT to a buyer or tenant if the LEAD-BASED PAINT is known

by the seller or landlord but not disclosed to the agent. The new LEAD-BASED PAINT disclosure rules require that sellers and landlords disclose to agents the presence of any known LEAD-BASED PAINT as well as any additional information about the basis for the determination that LEAD-BASED PAINT exists on the property, the location of any LEAD-BASED PAINT on the premises, and the condition of painted surfaces. Sellers and landlords must also disclose to agents the existence of any available records or reports pertaining to LEAD-BASED PAINT on the premises. The federal LEAD-BASED PAINT rules provide that each agent shall ensure compliance with all the requirements of the rules. "Agent" is defined as any party who enters into a contract with a seller or landlord for the purpose of selling or leasing target housing. For real estate agents in sales transactions, this means all listing, selling, cooperative, and buyer's agents (except those paid only by the buyer). In rental transactions, this means property managers, and leasing and rental listing agents.

Listing the Residential Property

The listing agent will **NOT** complete the property condition disclosure, but will complete a listing contract which contains a termination of contract date. The following guidelines detail the steps which must be taken by the listing agent to comply with the federal LEAD-BASED PAINT rules.

1. Determine if the property is target housing.
2. Look for painted surfaces in bad condition while inspecting the property.
3. Advise the seller of his or her obligations under the LEAD-BASED PAINT rules.
4. Ask the seller if he or she has any knowledge of LEAD-BASED PAINT or LEAD-BASED PAINT hazards on the property.
5. Obtain copies of any available LEAD-BASED PAINT records pertaining to the property.

By the time the offer is accepted, the seller should have made any LEAD-BASED PAINT disclosures; signed by the seller, buyer, listing agent and cooperating agent, and incorporated into the offer. In addition, the buyer should have received the LEAD-BASED PAINT information pamphlet.

14.5 Anti-Trust Policy

This company maintains a strong policy against any anti-trust involvement by the Company, it's Agents, and it's Staff. The Company requires each person associated with the Firm to affirm completion of anti-trust education and acknowledge his/her understanding of these principles. There are 2 primary areas of anti-trust policy that all Agents must understand and comply with:

a) PRICE FIXING: Price fixing means any agreement, setting, consent to, suggestion or implication with a competitor regarding a fee to charge. This includes fees charged to the public, fees split among brokers and fees paid to agents. "Agreement" can be overt, covert, express or implied. It is very broad based and can even be suggested or implied by casual conversation with any competitor.

All Agents are prohibited from discussing with any competitor, including an individual agent, any aspect of the fees the Company charges or how total fees are split. This Agent determines its

charges based on the Company's own independent internal analysis of its expenses, its revenue, its desired profit level and its choice of the type and level of service it desires to provide.

In any discussion with a member of the public about our charges (such as a listing appointment), the only acceptable answer about why the company charges what it does is the foregoing explanation. Do not be drawn into a discussion about Company fees as "the standard rate," "the Board rate," "the typical rate" or the like. If questions arise about other Company's fees, suggest that the potential client call several competitors and ask about their rates.

b) BOYCOTTING COMPETITION: It is also a violation of federal law to make any agreement, express or implied, with a competitor to boycott or otherwise not deal with a third competitor. For example, assume Discount Realty opens up an office. Then assume Bob Broker, an agent with Big Bucks Broker, and Alice Agent, an agent with Just As Big Broker are having lunch one day and discuss the competitive impact of Discount Realty. Bob and Alice agree that Discount is a danger to their large listing portfolios and further agree that individually they will not show Discount's listings because "Something has got to be done about that price-cutting monger." This simple agreement with two agents is an illegal boycott. Even if it were implicit and not overt, it could be construed as an illegal boycott.

Fathom Realty prohibits any agent or staff member from making any agreement or suggestion with a competitor, including an individual agent, that he/she or the company will not deal with a third broker or agent, whether it be a listing company, buyer's brokerage, discount broker or any other broker or agent whatever.

REALTORS® ONLY: Each agent and staff member of this Company is required to view the NAR videotape on anti-trust, read the NAR guide book "Anti-trust Compliance Program," execute the acknowledgment in the guide book and participate in training on anti-trust.

SUMMARY OF PRINCIPAL FEDERAL ANTI-TRUST LAWS

The basic statutes making up the body of law known as the anti-trust laws are the Sherman Act, the Clayton Act, the Robinson-Patman Act, and the Federal Trade Commission Act.

THE SHERMAN ACT - This statute enacted in 1890 was the first modern United States anti-trust law and remains the cornerstone of all the federal anti-trust statutes. It establishes two broadly stated principles of anti-trust policy:

1. Section 1 of the Sherman Act prohibits agreements, combinations or conspiracies between two or more persons, firms, corporations, or associations which unreasonably restrain trade.

2. Section 2 of the Act prohibits the monopolization or any attempted monopolization of any market for a particular product or service. These very general precepts of the Sherman Act have achieved specific meaning through a process of court interpretation which has continued for more than 90 years. The selected cases most applicable to real estate brokers and the real estate industry have been compiled by the National Association of REALTORS® as Volume 2 of its publication, *Anti-trust and Real Estate*.

It is not necessary to show a written contract to prove a violation of the Act.

"Understandings," formal or informal, written or oral, express or implied, are enough for a court or jury to infer that an agreement has been reached. As the Supreme Court said in a leading

anti-trust case, "A wink of the eye or a shrug of the shoulder is often more important than a formal handshake."

THE CLAYTON ACT - The Clayton Act was enacted by Congress in 1914, and was the next major anti-trust statute. Its approach differs from the Sherman Act in two basic ways:

1. While the Sherman Act applies to restraints of trade that have a present anti-competitive effect, the Clayton Act represents an effort to stop anti-competitive practices in the beginning by outlawing future conduct resulting in an unreasonable restraint of trade.
2. While the Sherman Act deals in broad principles, the Clayton Act is concerned with a limited number of specific subjects such as exclusive bidding arrangements (Section 3); acquisitions or mergers (Section 7); interlocking boards of directors (Section 8).

THE ROBINSON-PATMAN ACT - The Robinson-Patman Act enacted in 1936, amended the Clayton Act and deals with discrimination in prices charged various customers. The basic purpose of the Robinson-Patman Act was to protect small businessmen by putting constraints on the ability of a large company to command price discounts by use of greater purchasing power. The Federal Trade Commission is the enforcing agency for this law.

THE FEDERAL TRADE COMMISSION ACT - The Federal Trade Commission Act authorizes the FTC to enforce these federal laws. Such authority is shared with the Department of Justice. The FTC also enforces Section 5 of the Federal Trade Commission Act, which prohibits "unfair methods of competition" and "deceptive practices." Under this general provision, the FTC has enjoined potentially anti-competitive conduct before it could ripen into a violation of any of the anti-trust laws.

In addition to having the authority to seek injunctions, the FTC is authorized to sue in federal court to recover refunds for consumers who have been injured by violation of an FTC rule or cease and desist order.

ANTI-TRUST COMPLIANCE

In anti-trust cases, whether criminal prosecutions or civil treble damage suits, proof against the defendant is most likely to come from the defendant's own files and records or from statements made by the defendant or his associates. Thus, an anti-trust compliance program must not only avoid actual violations of anti-trust laws, but must also avoid creating or permitting the creation of files, records, documents, statements or conversations which might create an appearance of violation.

It is impossible, of course, to formulate a set of guidelines to cover all situations at all times, but insofar as the principles of anti-trust compliance can be stated in specific rules, it would be well advised to remember the following:

a) **DO NOT Discuss Your Business With Competitors** - At any time, in any place, or under any circumstances or have any personal or telephone conversations with competitors concerning commissions, fees, charges or any other business practices of your real estate business or those of the Company with which you are associated.

This applies at social gatherings, on the golf course, while hunting, in the bar, cocktail parties, board functions and at all times and at all places. At Association or Board meetings, confine discussions to topics of Association or Board business directly involved in the purpose of the organization and the meeting.

b) Written Communications Must Be Clear and Explicit - When you discuss a real estate transaction or the superiority of your business practices over your business competitors, talk to your Broker or Associates in the Company with which you are associated. Regardless of how carefully you may phrase your letter or memorandum, things look much different in writing than they should sound when spoken between knowledgeable people. Of course, financial and economic data sometimes must be written but in many instances, any information relevant to business or legal relations can be communicated by talking, and talking only to those who have legitimate justification for receiving the information you are transmitting. More than one anti-trust defendant has had his letter, correspondence, memoranda and written notes admitted in evidence against him for purposes for which the writer never intended. It is amazing how differently what you wrote sounds when it is read back to you in the grand jury room or during trial. All correspondence and memoranda must be clear and specific.

c) DO NOT Talk Unless You Know Who You're Talking To And What You're Talking About - In any business, complete candor among trusted business associates is necessary. It is not necessary, however, to tell everyone your business. Inform only those who need to know such matters as how and in what manner commission or fee contracts were negotiated, how much business you're doing, what business prospects are, how many and which properties you have sold, and anything else which might be of interest to someone investigating your business for a reason you know nothing about. If you receive a telephone call from anyone who refuses to identify himself or who begins what amounts to a probing cross examination about your business practices, terminate the conversation as quickly and courteously as possible. In this day of ever improved recording devices for both telephonic use and miniature recording devices easily concealed in a room or on the person of an investigator, it is well to make it a rule in discussing business matters to speak as if you were being recorded. The chances are better than you think they are!

d) DO NOT Deceive Yourself Or Let Anyone Else Deceive You Into Believing That Any Transgression Of The Anti-trust Laws Has Little Risk Of Discovery - The federal government possesses extensive investigatory powers, such as grand juries and civil investigative demands, as well as ingenious and dedicated investigators. Also, in private litigation, parties have litigation discovery tools to examine corporate or Company records and documents and to compel testimony. Even though an anti-trust violator may not keep records, it's competitors or the injured parties may. In this age of photocopying, it is difficult to restrict distribution. Unexpected records such as telephone bills, expense accounts, a secretary's notes, engagement calendars or a forgotten written rep may be uncovered. In a prosecution or suit for anti-trust violations, a party may be faced with surprise witnesses such as former associates and employees and plea bargainers. Also, an alleged co-conspirator may take advantage of the anti-trust division's leniency program and confess, thus perhaps avoiding indictment, a jail sentence and fines and keeping the tax-deductibility of civil damage payments.

e) DO NOT Use Such Terms As "Please Destroy When Read", "For Your Eyes Only", "No Copies", Or Similar Terms and Phrases - Experience has demonstrated that even if no copies are made, the original of such documents eventually end up in somebody's file. Even when marked "personal and confidential," the document is usually retained by the recipient and eventually filed. When an anti-trust investigation is underway or documents are produced on a civil investigative demand or in private anti-trust litigation, such terms and phrases are red flags

for the investigator or opposing counsel. All written documents must comply with the anti-trust laws whether inspected or discovered and should not indicate or infer an attempt to conceal any document.

f) DO NOT—At Any Time—Use Any Of The Words And Phrases Which NAR’s Program For Compliance Designated As “Dangerous” - Since such statements are so improper, incorrect and dangerous, they need to be emphasized here along with some other words and phrases.

- “We would like to charge a lower commission, but the board has a rule...”
- “This is the rate that all REALTORS® charge.”
- “The MLS will not accept less than a 120 day listing.”
- “Before you list with XYZ Realty, you should know that nobody is going to work on their listing.”
- “If John Doe is really professional (or ethical) he would have joined the Board.”
- “The Board requires that all REALTORS® force their sales people to join.”
- “The best way to deal with John Doe is to boycott him” or “we don’t worry about John Doe; we just don’t show his listings.”
- “If you valued your services as a professional, you wouldn’t cut your commission.”
- “No board member will accept a listing for less than 90 days.”
- “Let him stay in his own part of town, this is our territory.”
- “If he was really a professional, he wouldn’t use part timers.”
- “X is the going rate in this area.”
- “We have to charge that commission since our rates are set by the your state’s Real Estate Commission.”
- “The standard commission in this area is X.”
- “When I see that guy’s signs, I just drive the prospect down another street.”
- “We’ve all agreed that any commission below X is unfair.”
- “Something’s got to be done about that company, nobody can charge such a low commission and make a living.”
- “That price-cutter has no business being a member of the board.”
- “You will not get a lower commission from a Realtor®.”
- **If In Doubt, Consult** - No compliance program or manual can spell out all the answers to questions that may arise. Situations are bound to arise which create doubt. If you do not have doubts about the legal of any business practice, procedure or activity, consult your board executive officer, the broker under whose license you work or legal counsel knowledgeable about anti-trust matters.
- **Without Clearance: Don’t Do It** - If neither the board executive officer, an executive officer of your Company nor legal counsel will give clearance to a proposed business deal or activity with anti-trust implications—don’t do it.

DOCUMENT RETENTION POLICY

Documents should not be kept any longer than reasonably necessary and should be destroyed when their useful life is over.

CONSEQUENCES AND COSTS OF FAILURE TO COMPLY

If not persuaded by the positive approach to anti-trust compliance alternative practical reasons must be considered. It will take a considerable expenditure of money, staff-time, and membership-time to institute and maintain a continuous, on-going anti-trust compliance

program. To make that judgment, consideration must be given to the awesome consequences and costs of the failure to carry on a continuous anti-trust compliance program. Those who choose to ignore the anti-trust laws or fail to educate themselves about such laws and develop a sensitivity to anti-trust risk very serious consequences and costs for themselves, those with whom they are associated and their fellow REALTORS®.

- a) **Criminal Prosecution** - The criminal penalties for violating anti-trust laws are severe, and the present enforcement trend is to prosecute not only the association, corporation, or firm involved, but also the officers, directors, staff, and employees personally. A violation of the Sherman Act, for example, is a felony for which any corporation may be fined up to one million dollars for each offense and an individual can be fined up to \$100,000 and imprisoned for up to three years for each offense. The fines are not tax deductible. Also if a taxpayer is indicted and subsequently pleads guilty or *nolo contendere* or is convicted, payments or damages in civil treble-damage actions are only one-third deductible. Jail sentences and probation, which by now are by no means uncommon, can be great personal tragedies. It is not pleasant trip through the typical arrest, fingerprinting, photographing and bail processes! Furthermore, convicted felons incur many civil disadvantages with respect to voting, holding of public office and the like. The emphasis today in the Justice Department is on stronger and more frequent criminal enforcement. *Nolo contendere* pleas are usually opposed by the government, and larger fines and sentences are being sought.
- b) **Private Treble Damage Suits** - Anti-trust laws also provide for civil penalties. Persons or businesses injured by violations of the anti-trust laws may recover three times the amount of their damages, plus attorney's fees and all costs of litigation. The potentially enormous size of these judgments, particularly in a class action suit, can spell disaster for all real estate brokerage companies and boards of REALTORS® which are involved.
- c) **Injunctions** - The government and injured persons or businesses may also obtain injunctions against further anti-trust violations. The severe requirements of these injunctions will handicap any brokerage business or board of REALTORS®.
- d) **Consent Decrees** - To avoid the shocking expense of defending anti-trust suits, some defendants elect to "settle out of court" by agreeing to consent decrees. However, these consent decrees can severely restrict an association's operations or a company's business, and, in some instances, the result is that the officers, directors and staff of a defendant from day-to-day carry on the operations under peril of contempt of court citations or threats of civil penalties of up to \$10,000 per day. Conduct and practices which have not been adjudicated to be unlawful are often prohibited on consent decrees.
- e) **Time** - Anti-trust litigation usually requires years of preparation before trial and many months of appeals. From the filing of suit to settlement of judgment, on the average may take from 4 to 5 years. Not only may the defendant board or real estate Company in an anti-trust case face years of uncertainty, but the valuable time of REALTORS® and other personnel almost certainly will be spent in long hours of

preparing testimony, giving depositions, producing documents, tabulating statistics and performing other necessary preparations for trial. It is almost impossible for board executives and REALTORS® in anti-trust cases to appreciate the time lost and the expense involved until they actually experience serious anti-trust litigation.

- f) **High Cost of Anti-trust Litigation** - The cost of defending anti-trust suits, civil or criminal, is astonishing. It is not at all unusual in criminal anti-trust cases for the cost of litigation to exceed the fines imposed. Even defendants confident of acquittal are faced with the prospect of spending shocking amounts of money and countless days of employee time and effort in establishing their innocence. So called “simple” anti-trust cases usually cost hundreds of thousands of dollars to defend. It is, therefore, imperative that REALTORS® involved in the real estate brokerage business not only comply with the anti-trust laws, but also avoid even the suspicion of any violations.
- g) **Adverse Publicity** - Whether the anti-trust case is civil or criminal, once the suit is filed, damages to the reputation and public image of both the local board as well as the individual defendants and especially the image of Realtor® as an ethical and responsible business person are incalculable. Even if the government’s prosecution or private plaintiff’s treble damage suit against a Realtor® is without merit and the cases are eventually won by the defendants, the bad publicity lingers on.
- h) **Internal Strife and Tension** - No matter how well organized and managed a local board or Realtor® Company may be, once an anti-trust investigation is launched or an anti-trust suit is filed, internal strife and tension among the staff and employees is unavoidable. Personnel will be kept busy assisting in matters involving the investigation or in preparing for litigation, and some inevitably will seek to disassociate themselves from others whom they perceive to have contributed to the charge. The loss of work efficiency and production resulting from these conflicts is expensive and can be ruinous to any board or Realtor® business.

Section 15.0

Risk Reduction

This company advocates and encourages the concept of risk reduction. The strong majority of claims filed against real estate agents and brokers allege some misrepresentation or fraud. The trend of the law in the real estate industry is for more and more disclosure. Accordingly, this company has the following policies regarding risk reduction and disclosure.

COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS: As an agent of this Company each person assumes the obligation of strict compliance with all laws, rules and regulations which govern real estate licensees in your state.

COMPLIANCE WITH THIS POLICY MANUAL: As an agent of this company each person agrees to comply with all policies as stated in this manual and its additions, changes and amendments as from time to time published by management of the company. Failure to comply with the

policies herein subject the agent or staff member to disciplinary action which may include termination of association with the company.

PHYSICAL CONDITION OF THE PROPERTY: In accord with the REALTOR® Code of Ethics, the policy of the Company is to disclose to all appropriate parties any known material physical conditions or defects of a property and any adverse material facts. This applies whether the Firm is the listing agent or buyer's agent.

Physical conditions on the property may include water in the basement, foundation cracks, drainage problems, defects in any of the major systems of the property (electrical, plumbing, heating, cooling), environmental conditions on or near the property, roof problems, etc.

As previously stated, adverse material facts which are known or which the licensee should have known are required to be disclosed. Adverse material facts are defined as facts related to the physical condition of the property not reasonably ascertainable or known to a party which affect the value of the property.

PSYCHOLOGICAL "STIGMAS" ON THE PROPERTY: These include whether homicide or other felony, or a suicide occurred on the premises, the location of a registered sex offender, or if an occupant or former occupant of the real property has or had AIDS or any HIV positive condition. Stigmas include offsite conditions that do not directly impact the property. Some states have "psychological impact" statutes which provides that no cause of action may be brought against a real estate agent or broker for failure to disclose to a buyer or other transferee of real property that the real property was a psychologically impacted real property. Although this statute protects an agent for failure to make a disclosure, it does not prohibit disclosure. Likewise, the Code of Ethics does not require disclosure in situations where state law defines these factors as not material.

The 1988 amendment to the Fair Housing Act includes a person with AIDS, HIV, or other related illness as a handicapped person. The Act likely prohibits an agent or broker from disclosing that the occupant or the former occupant of a dwelling suffered or suffers from AIDS. Therefore, it is the policy of this company that an agent should not make an unsolicited comment that the current or former occupant has or had AIDS. Further, if the buyer makes an inquiry as to whether the occupant has AIDS, the agent shall not respond to such a question. The agent should state to the effect **"it is the policy of this company not to answer that type of question one way or the other since it is not material and may violate the Fair Housing Act."** If the buyer persists, the agent shall state, **"if that information is important to you, you must determine that information yourself."**

Because of the practical problems of the inevitable "disclosure" of these factors (often by the neighbors), the policy of this company is to discuss with the seller-client the inevitability of this disclosure and to recommend disclosure of psychological factors other than AIDS, HIV, or related illnesses that may have an impact on a purchaser's decision to buy. Recent violent crimes or suicides are specific examples of such events. If, after this discussion, the seller-client instructs the agent not to disclose these factors, the broker must make a business decision about whether to offer to list the property.

DOCUMENTATION OF DISCLOSURE: As is apparent, this company advocates full disclosure in appropriate circumstances. However, all the disclosure in the world does no good if it cannot be proven. While it would be ideal to have every single disclosure as to every material item disclosed to the parties in writing with their acknowledgment of the disclosure, such is not usually possible.

The company's preferred policy is to have just such a written disclosure and acknowledgment as in the case of a Seller Property Disclosure Statement.

Recognizing that this ideal cannot be attained in every situation, the policy of this company is that the agent should document in his/her own personal notes and files each item that is disclosed in a transaction.

This simple policy can reduce risk and potentially save many thousands of dollars. It assumes that the agent has a regular, systematized method of organizing and keeping files. This is vitally important to a good documentation procedure.

Agents are required to use the transaction management platform as it has been developed to keep track of details, act as a transaction checklist and risk reduction method.

Disclosure is great, but documentation of the disclosure is the glue that seals the cracks.

USE OF EXPERTS & "RECOMMENDATIONS": This company maintains a strong policy that an agent not go beyond his/her area of expertise regarding a transaction. The company strongly recommends that an agent advise the use of an expert in situations where appropriate. For example, if questions arise with a buyer about the adequacy of the electrical system, the agent should advise that a building inspector, engineer or licensed electrician be consulted.

However, an equally strong policy exists in **NOT** recommending any particular inspector, engineer, electrician or other expert. While advising that AN expert be used is a good risk reduction technique, the benefits of this technique are lost if a specific expert is recommended. Recommendation of a specific expert could lead to liability if the expert fails to do his/her job and the agent was negligent in recommending that person.

The policy of this company is to give the names of three experts in each field whenever asked for a recommendation. Do not fall into the trap of responding to a customer/client saying "Yeah, but which one do you really recommend?" The agent should be firm in having the customer/client make the choice.

Some agents have found a helpful tool in keeping several sample reports from various building/mechanical inspectors, engineers, roofers, etc. When the customer/client asks for a recommendation, the agent gives the customer/client the samples and suggests that they choose the style and cost of the expert which fits their style and needs the best.

A related issue is ordering the report. The policy of this company is that the agent should not order the report if at all possible. The company recognizes that certain situations require the agent to place the order, but, in general, the agent should have the customer/client place the

order. This removes the company and agent from any involvement in the selection process and reduces the liability of possible negligence in "recommendation" of an expert.

TRAINING: As stated in other parts of this manual, training and education are integral parts of any risk reduction and professionalism program. All agents are expected to complete the company's initial training program and are strongly encouraged to take advantage of company, board and association education programs.

USE OF LEGAL COUNSEL: Whenever an agent believes he/she requires legal assistance, the Broker should be contacted. The company has access to legal counsel for appropriate legal questions and problems. The earlier a legal question or problem is brought to the attention of management, the earlier the problem can be solved. The company's position is that wisely spent legal fees early in a problem can save many thousands of dollars if a formal complaint or lawsuit arises.

ERRORS AND OMISSIONS INSURANCE:

Refer to Section 8.9 of this policy manual. The company carries Errors and Omissions insurance in the amount of \$1,000,000 per incident with a deductible of \$2,500. All agents and staff of the company are covered by the policy. The policy is paid by the Company using a portion of the fees paid by the agent.

Errors and Omissions insurance generally covers the negligent acts of the insured. It does not cover all possible damages for which the company could be liable. For example, no errors and Omissions insurance covers punitive damages. For other exceptions, contact the Broker for a copy of the policy.

Errors and Omissions insurance does cover defense costs, that is, the legal fees involved in defending a claim against the company or agent. This is very valuable coverage.

The policy of this company is that each agent must notify the Broker as soon as the agent is aware of a possible claim against the agent/broker. "Possible claim" means the potential of a disagreement which could lead to a lawsuit against the company or agent. Only in this way can the company properly invoke the Errors and Omissions coverage, if necessary.

Section 16.0

Association Affiliation

16.1 Code Of Ethics of the National Association of REALTORS

All agents affiliated with Fathom Realty shall read, understand, and adhere to the National Association of Realtors Code of Ethics.

16.2 MLS Rules and Regulations

The rules and regulations shall be strictly adhered to and followed. The Agent is responsible for learning and applying those rules to every transaction. The appropriate forms shall be used whenever required.

Attendance at the MLS meetings are encouraged.

16.3 Local Association of REALTORS

The local association of REALTORS also has by-laws that must be adhered to. As with the MLS rules and regulations, the adherence to those by-laws is the responsibility of the agent. Those sales associates not following the MLS rules and regulations or the by-laws of the association are subject to termination.

ACKNOWLEDGMENT OF RECEIPT

I acknowledge that I have received a copy of the Fathom Realty Policy Manual. I understand that nothing contained in the Policy Manual shall be construed as a contract of employment. I understand that my employment is terminable at will, so that both Fathom Realty and I remain free to end our work relationship at any time for any reason. I understand that Fathom Realty reserves the right to amend policies at its discretion at any time.