

Coldwell Banker Residential Brokerage

# Policies & Procedures

# Manual

For Arizona Sales Associates

# *Our Mission & Business Principles*

*NRT is a family of companies dedicated to creating exceptional real estate experiences for our customers and communities through the passionate delivery of truly remarkable service.*

*We pledge to promote a fun, fulfilling and respectful environment, one that is open to change and innovation, providing personal growth opportunities for all.*

# Contents

<b>I.</b>	<b>DEFINITIONS .....</b>	<b>1</b>
<b>II.</b>	<b>PURPOSE .....</b>	<b>2</b>
<b>III.</b>	<b>ASSOCIATION POLICY .....</b>	<b>2</b>
<b>IV.</b>	<b>SALES ASSOCIATE BRANCH OFFICE TRANSFER POLICY .....</b>	<b>3</b>
<b>V.</b>	<b>RESPONSIBILITIES OF SALES ASSOCIATES .....</b>	<b>3</b>
	A. Maintaining Client Relationships .....	3
	B. Vendor Referrals .....	4
	C. Sales Associate’s Personal Property kept on CB’s Premises .....	4
	D. Real Estate License .....	4
	E. Expenses.....	5
<b>VI.</b>	<b>SALES ASSOCIATE’S PROFESSIONAL CORPORATION.....</b>	<b>5</b>
	A. ADRE Paperwork.....	5
<b>VII.</b>	<b>LICENSEE ACTIVITIES .....</b>	<b>7</b>
	A. CB is a Residential Real Estate Company. “Residential Real Estate” includes transactions involving: .....	7
	B. Prohibited Activities for all CB Licensees: .....	7
<b>VIII.</b>	<b>PROFESSIONAL APPEARANCE .....</b>	<b>7</b>
<b>IX.</b>	<b>WEAPONS POLICY .....</b>	<b>7</b>
<b>X.</b>	<b>ADVERTISING POLICY .....</b>	<b>7</b>
	A. The Employing Broker’s Name Must Be “Clear and Prominent” In All Advertising.....	8
	B. The Employing Broker’s Name Must Be on Each Page of Sales Associate’s Website and/or Blog.....	8
	C. Teams Must Comply with the Same Advertising Rules.....	8
	D. Offers of a Premium at No Cost .....	9
	E. Other Advertising Rules.....	9
	F. Open House Signs .....	10
	G. NRT Advertising Rules .....	10
<b>XI.</b>	<b>USE OF SOCIAL MEDIA IN THE REAL ESTATE BUSINESS .....</b>	<b>10</b>
	A. Blogging .....	11
	B. Use of Third-Party Social Media Sites (Facebook, YouTube, Twitter, etc.).....	12
	C. Posting of Professional Contacts/Qualifications (e.g., LinkedIn) .....	12
	D. Posting of Text (e.g., Facebook, Instagram, Twitter, Snapchat, etc.).....	12
	E. Posting of Comments to Social Media Pages of Others .....	13
	F. Posting of Audio/Video and Photos (YouTube and Flickr) .....	13
<b>XII.</b>	<b>POSTAGE.....</b>	<b>13</b>
<b>XIII.</b>	<b>COPY MACHINE / SCANNER / FAX MACHINE.....</b>	<b>13</b>
<b>XIV.</b>	<b>TELEPHONES.....</b>	<b>13</b>
<b>XV.</b>	<b>ELECTRONIC/DIGITAL SIGNATURES.....</b>	<b>13</b>
<b>XVI.</b>	<b>ELECTRONIC COMMUNICATIONS .....</b>	<b>14</b>
<b>XVII.</b>	<b>CYBER SECURITY AND WIRE FRAUD.....</b>	<b>14</b>
<b>XVIII.</b>	<b>SALES MEETINGS.....</b>	<b>15</b>
<b>XIX.</b>	<b>VACATION/UNAVAILABILITY COVERAGE.....</b>	<b>16</b>
<b>XX.</b>	<b>UNLAWFUL HARASSMENT POLICY .....</b>	<b>16</b>
	A. Policy.....	16
	B. Complaint Procedures .....	17
<b>XXI.</b>	<b>CLAIMS, LEGAL PROCEEDINGS, ADMINISTRATIVE PROCEEDINGS AND INTERNAL DISPUTE RESOLUTION POLICIES AND PROCEDURES .....</b>	<b>17</b>
	A. Legal Assistance Program.....	17

	B. Association of REALTORS® Arbitration Complaints .....	20
	C. Internal Commission Disputes .....	20
	D. Claim, Complaint and Legal Process Handling Procedures .....	20
<b>XXII.</b>	<b>FORMS .....</b>	<b>22</b>
<b>XXIII.</b>	<b>LISTINGS .....</b>	<b>22</b>
	A. Listing Cancellation .....	22
	B. Listing File Documents .....	22
<b>XXIV.</b>	<b>SALES .....</b>	<b>24</b>
	A. Sales Transaction Documents .....	24
	B. Earnest Money .....	26
	C. Purchase Contract Cancellations .....	26
	D. Rejected Offers .....	27
	E. General Sales Guidelines .....	27
<b>XXV.</b>	<b>LEASES .....</b>	<b>27</b>
	A. Credit Reports .....	27
	B. Processing Paperwork .....	27
	C. Lease Listing File Documents .....	27
	D. Leased Transaction Documents .....	28
	E. Lease Deposits .....	28
	F. Lease Commissions .....	28
<b>XXVI.</b>	<b>FILE RETENTION .....</b>	<b>29</b>
<b>XXVII.</b>	<b>SALES ASSOCIATE’S DUTIES TO CLIENTS AND NON-CLIENTS .....</b>	<b>29</b>
<b>XXVIII.</b>	<b>PRESENTING OFFERS AND COUNTER OFFERS .....</b>	<b>31</b>
<b>XXIX.</b>	<b>COMPANY DISCLOSURE POLICY .....</b>	<b>31</b>
	A. Agency .....	31
	B. Seller Representation .....	31
	C. Buyer Representation .....	32
	D. Transaction Disclosures .....	32
<b>XXX.</b>	<b>WRAP-AROUND, CARRYBACK OR SUBORDINATION FINANCING .....</b>	<b>33</b>
<b>XXXI.</b>	<b>UNUSUAL OFFERS AND/OR UNFAMILIAR PROPOSALS .....</b>	<b>34</b>
<b>XXXII.</b>	<b>POOL BARRIER DISCLOSURE POLICY .....</b>	<b>34</b>
<b>XXXIII.</b>	<b>AIRPORT DISCLOSURE .....</b>	<b>34</b>
<b>XXXIV.</b>	<b>CLANDESTINE DRUG LAB DISCLOSURE .....</b>	<b>35</b>
<b>XXXV.</b>	<b>FISSURE MAPS .....</b>	<b>35</b>
<b>XXXVI.</b>	<b>LEAD BASED PAINT DISCLOSURE .....</b>	<b>35</b>
<b>XXXVII.</b>	<b>SUPERFUND AND WQARF SITE DISCLOSURE .....</b>	<b>35</b>
<b>XXXVIII.</b>	<b>FAIR HOUSING/EQUAL OPPORTUNITY POLICY .....</b>	<b>35</b>
<b>XXXIX.</b>	<b>RESPA POLICY .....</b>	<b>36</b>
<b>XL.</b>	<b>ANTI-TRUST COMPLIANCE .....</b>	<b>36</b>
<b>XLI.</b>	<b>PARTNERSHIP AGREEMENTS BETWEEN SALES ASSOCIATES .....</b>	<b>37</b>
<b>XLII.</b>	<b>SALES ASSISTANT PROGRAM .....</b>	<b>37</b>
<b>XLIII.</b>	<b>REFERRAL FEES AND COMMISSION SPLITS (SHARED COMMISSIONS) .....</b>	<b>38</b>
<b>XLIV.</b>	<b>DISCOUNTS ON REAL ESTATE COMMISSIONS .....</b>	<b>38</b>
	A. Sales Associates .....	38
	B. General Guidelines .....	40
<b>XLV.</b>	<b>PRIVACY TIPS .....</b>	<b>40</b>
	A. Protecting Personally Identifiable Information (PII) .....	40
<b>XLVI.</b>	<b>COMMISSIONS .....</b>	<b>41</b>

A. Commission Compensation.....	41
B. Payment of Commission .....	41
C. Commission Negotiations and Commission Deferrals.....	42
D. Bonuses or Incentives.....	42
E. Non-Refundable Retainer Fees.....	42
F. Commission Level Rollbacks.....	42
<b>XLVII. DISASSOCIATION POLICY .....</b>	<b>42</b>
<b>XLVIII. EMPLOYEES.....</b>	<b>43</b>

## **I.**

### **DEFINITIONS**

For the purposes of these Policies and Procedures, the following terms shall have the meanings set forth below:

“AAR” means the Arizona Association of REALTORS®.

“ABADS” means *Affiliated Business Arrangement Disclosure Statement*.

“Affiliated Settlement Services Provider” means a settlement service provider in CB has an ownership interest or other financial interest.

“ADRE” means the Arizona Department of Real Estate.

“BINSR” means *Buyer’s Inspection Notice and Seller’s Response*.

“Branch Office” means a real estate sales office of the Company.

“CB” means Coldwell Banker Residential Brokerage.

“Commission Agreement/Schedule” means the agreement between CB and Sales Associate regarding the sharing of earned commissions from real estate transactions.

“Company” means NRT Arizona LLC dba Coldwell Banker Residential Brokerage.

“Home Office” means CB’s business offices located at 10446 N. 74<sup>th</sup> Street, Suite 101, Scottsdale, Arizona 85258-1023.

“Designated Broker” means the natural person who is licensed as a real estate broker by the Arizona Department of Real Estate and who is designated to act on behalf of NRT Arizona LLC doing business as Coldwell Banker Residential.

“Employee” means an employee/staff of the Company.

“Employing Broker” means NRT Arizona LLC dba Coldwell Banker Residential Brokerage.

“Independent Contractor” means a real estate licensee who is associated with NRT Arizona LLC dba Coldwell Banker Residential Brokerage.

“Licensee” means a person granted a license to sell real estate by the Arizona Department of Real Estate.

“Listing Broker” means the real estate broker who represents the seller.

“Managing Broker” means the real estate broker employed by the Company to manage a Branch Office and is duly authorized in writing by the Designated Broker to act on the Designated Broker’s behalf.

“MLS” means multiple listing service.

“NAR” means National Association of REALTORS®.

“NRT Arizona LLC” is the legal name of Coldwell Banker Residential Brokerage.

“Policies & Procedures” means these Policies & Procedures and all amendments, revisions and/or addenda hereto as may be made from time to time.

“President” means the President and Chief Operating Officer of the Company.

“Purchase Contract” means the AAR *Residential Resale Real Estate Purchase Contract* or AAR *Vacant Land/Lot Purchase Contract*.

“READE Form” means *Real Estate Agency Disclosure and Election* form.

“Rental Agreement” means the AAR *Residential Lease Agreement*.

“RESPA” means Real Estate Settlement Procedures Act of 1974.

“Royalty Fee”<sup>1</sup> means the percentage fee on gross commissions earned by CB that is paid to NRT LLC.

“Sales Assistant” means a licensee who is an assistant to Sales Associate.

“Sales Associate” means an independent contractor who is a licensee associated with NRT Arizona LLC dba Coldwell Banker Residential Brokerage.

“Selling Broker” means the real estate broker who represents the buyer.

“SPDS” means *Residential Seller’s Property Disclosure Statement*.

## **II. PURPOSE**

The purpose of these Policies & Procedures is to provide uniformity and continuity in all CB business related matters. In the event that exceptional circumstances arise, Sales Associate should confer with his/her Managing Broker for appropriate guidance.

## **III. ASSOCIATION POLICY**

**A.** Upon electing to associate with Coldwell Banker, Sales Associate must complete all necessary Arizona Department of Real Estate, Association of REALTORS® and CB’s Automated Agent Affiliation OnBase process, including the Independent Contractor Agreement packet, and his/her Commission Schedule Agreement, and pay the necessary fees. (In accordance with CB’s Independent Contractor Agreement, all Sales Associates must be members in good standing of the National Association of REALTORS®, Arizona Association of REALTORS® and the local Association/MLS of their choice of which the Designated Broker is a member and must be current in payment of the required dues at all times.)

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<sup>1</sup> Royalty fee shall be the stated fee in Sales Associate’s Commission Agreement.

Sales Associate shall not become effectively associated with CB until the Designated Broker approves the licensee's "hire" request through ADRE's website.

**B.** Upon association with CB, an annual non-refundable Legal Assistance Program Fee will be collected from Sales Associate. (NOTE: This Legal Assistance Program Fee is an annual fee which will, after association, be due on July 1<sup>st</sup> of each calendar year and which is subject to change.) In addition to the Legal Assistance Program, a one-time start-up fee may be collected from Sales Associate when associating with CB.

**C.** Sales Associates shall maintain automobile insurance and provide CB with a certificate of insurance naming CB as an additional insured with a minimum of \$100,000/person and \$300,000/occurrence for bodily injury liability and a minimum of \$100,000 property damage liability. If Sales Associate's insurance company will not provide a Certificate of Insurance, the Sales Associate will be required to provide CB with a copy of their automobile insurance policy declaration page.

**D.** CB provides training and continuing education credit courses on a monthly basis. CB's intranet site maintains class schedules and provides for online registration. See your Managing Broker for further details.

#### **IV. SALES ASSOCIATE BRANCH OFFICE TRANSFER POLICY**

If Sales Associate would like to transfer from his/her current Branch Office to another CB Branch Office, he/she should advise his/her Managing Broker of his/her intent before interviewing with the Managing Broker of the Branch Office he/she would like to transfer to. Once all parties are in agreement of the transfer, notify the Office of the Broker in writing and the ADRE license transfer will be completed for you.

#### **V. RESPONSIBILITIES OF SALES ASSOCIATES**

##### **A. Maintaining Client Relationships**

1. If Sales Associate is unable to work with a client, he/she should promptly turn the client over to another CB Sales Associate within the same Branch Office. Any agreement between Sales Associates regarding commission splits must be in writing using the *CB Arizona Coldwell Banker Residential Brokerage Referral or Commission Split Agreement form*.

2. If Sales Associate has arranged to show a seller's property and cannot keep the appointment, he/she must promptly call the seller and cancel the appointment.

3. If Sales Associate has arranged to show a buyer property and cannot keep the appointment, he/she must promptly call the buyer and cancel the appointment or make other arrangements.

4. If a client insists on a change of Sales Associate, the Managing Broker shall review the situation and may reassign the client to another Sales Associate if it is in the best interest of the client.



## **B. Vendor Referrals**

1. Sales Associate should refer his/her clients to the Concierge Department to aid in the identification of licensed and bonded contractors for repairs, maintenance or improvements to their properties. If a problem arises, Sales Associate's liability for negligent referral will be greatly reduced with the use of the Concierge Department.
2. Sales Associate is prohibited from accepting any referral fee or gift of any kind from a vendor in exchange for a referral or recommendation.
3. Sales Associate is not authorized to order work of any kind or to turn on any utilities in the name of CB.

## **C. Sales Associate's Personal Property kept on CB's Premises**

Sales Associate indemnifies and holds CB harmless from and against any and all claims due to loss or damage to their personal property from fire, flood, theft or any cause whatsoever. It shall be the sole responsibility of Sales Associate to acquire and maintain insurance coverage on personal property, including personal computers, laptops, PDA's, etc.

## **D. Real Estate License**

It is the responsibility of Sales Associate to maintain a current real estate license with the ADRE and process any renewal on a timely basis. If Sales Associate has not provided proof of license renewal by the expiration date of Sales Associate's current license or has not provided proof to the ADRE of their 24 hours of continuing education every two years, the Designated Broker reserves the right to disassociate Sales Associate's license. Sales Associate may obtain license renewal information from ADRE's website or from the following link:

<https://az.gov/webapp/dre>

It is the responsibility of Sales Associate to notify the ADRE of any change of name or address within ten (10) days of the change and comply with all other ADRE requirements regarding notification.

It is the responsibility of Sales Associate to comply with all State Statutes Title 32, Chapter 20 relating to real estate activities and to comply with all ADRE Commissioner's Standards and Rules.

It is the responsibility of Sales Associate to comply with the National Association of REALTORS® Code of Ethics and Standards of Practice.

It is the responsibility of Sales Associate to comply with any and all current State and Federal laws, rules and regulations including but not limited to, directing the Buyer and Seller to the respective advisory sites, the Do Not Contact Program ("DNC"), etc.

## **E. Expenses**

Sales Associate understands the Company is not liable for payment of expenses. Expenses include, but are not limited to, personal clerical support, health insurance, advertising, liability insurance, FICA and taxes.

## **VI. SALES ASSOCIATE'S PROFESSIONAL CORPORATION**

If Sales Associate elects to become a professional corporation, he/she must contact the ADRE, or Office of the Broker to affirm that the Professional Corporation ("PC") or Professional Limited Liability Company ("PLLC") name he/she has chosen will be acceptable to the ADRE. The same also applies for any amendments to a current PC/PLLC. The name cannot be fictitious. As an example, it must be: "John Smith PC" or "John Smith PLLC." All parties included in the PC/PLLC must be named. As an example, Jim Smith and John Jones would be "Smith and Jones PC."

**NOTE:** The Articles must state **"The sole purpose of the Professional Corporation (or Professional Limited Liability Company) is to render professional real estate services."**

Coldwell Banker Residential Brokerage cannot pay an INC or an LLC real estate commissions per A.R.S. § 10-2215.

Once Sales Associate has completed their PC or PLLC with the Arizona Corporation Commission, Sales Associate will need to apply for an EIN available at [www.irs.gov](http://www.irs.gov). Sales Associate will then need to complete the following steps in order to change their status to a PC or a PLLC with the ADRE.

### **A. ADRE Paperwork**

1. Sales Associate shall Complete ADRE's "Application for a Real Estate Salesperson or Broker Professional Corporation (PC) or Professional Limited Liability Company (PLLC)" form **LI-231**. The form must be signed by the Designated Broker. Sales Associate must read the guidelines for a PC/PLLC before completing the form and submitting it to the ADRE. Follow the check list for all documentation needed to submit with the application.
2. Select the link below (move cursor over the link, press the control key and right click with the mouse) to access the Check List and Application from the ADRE website:  
<http://www.re.state.az.us/Lic/Forms/Form LI-231 App for Lic as Pro Corp or Pro LLC.pdf>
3. What to submit to ADRE: Copy of the LI-231 Application and the filed Articles of Incorporation/Articles of Organization and/or Amendments and other documentation.
4. Once the ADRE has processed the change and Sales Associate's license reflects the PC or PLLC name, Sales Associate must notify CBRB and submit IRS letter which assigned the EIN and an updated W9 to the Office of the Broker, Kim.Odehnal@azmoves.com.
5. Once the ADRE has processed the change and Sales Associate's license reflects the PC or PLLC name, Sales Associate must send copies of the Articles, IRS letter, and license showing the PC or PLLC name to the Office of the Broker.
6. When the Office of the Broker receives this information, Sales Associate's name will be changed to the PC or PLLC in the NRT system. Sales Associate's OA will be notified that the change has been made.

7. Going forward, all commissions will be paid to Sales Associate's PC/PLLC.

**Further questions should be brought to your accountant or tax professional.**

Please contact either of the following for more information:

Office of the Broker  
Direct: 480.481.8400

OR

Arizona Department of Real Estate  
Main Number: 602.771.7799  
[broker.specialist@azre.gov](mailto:broker.specialist@azre.gov)

## **VII.**      **LICENSEE ACTIVITIES**

### **A.   CB is a Residential Real Estate Company. “Residential Real Estate” includes transactions involving:**

1. Single family dwellings.
2. Income Properties 1-4 Units
3. Apartment building(s) with not more than an aggregate of twenty (20) units.
4. Lots or land suitable for building:
  - (a) Single family dwellings.
  - (b) Multi-family building lots with an aggregate value of no more than \$500,000.
  - (c) Large tracts of land of 100 acres or less, of which the highest and best use is residential and the current zoning is for residential use.

### **B.   Prohibited Activities for all CB Licensees:**

1. Commercial Real Estate (unless permission has been granted by their Managing Broker).
2. Property Management (except where approved by the Company).
3. Business Opportunities.
4. Participation in Lender Fee Program or any Mortgage Banker Activity.
5. Committing the Company to any financial obligation whatsoever.
6. Processing Credit Reports.
7. Acting as an attorney-in-fact for either a buyer or a seller.
8. Acting as a principal on behalf of a buyer/seller in a real estate transaction.
9. Holding open houses for other companies’ listings and vice versa.

## **VIII.**      **PROFESSIONAL APPEARANCE**

CB expects all Sales Associates’ cooperation in the wearing of appropriate business attire.

## **IX.**      **WEAPONS POLICY**

For the safety of the Associates, staff and clients, fire-arms or any weapons of any kind are prohibited from being brought into any of our offices, whether or not the person is properly licensed to carry a concealed weapon.

## **X.**      **ADVERTISING POLICY**

All advertising by Sales Associate **must be approved by the Managing Broker** prior to publication to ensure compliance with ADRE Rules and Regulations and Regulation Z Truth in Lending laws.

When Sales Associate creates his/her own ads, flyers, newsletters, websites or any other marketing pieces, there are certain ADRE rules and regulations to which he/she must adhere. The following is an outline of those rules and regulations which must be strictly observed.

## **A. The Employing Broker's Name Must Be "Clear and Prominent" In All Advertising**

1. Commissioner's Rules R4-28-502E states, "A salesperson or broker shall ensure that all advertising identifies in a clear and prominent manner the Employing Broker's legal name or the dba name contained on the Employing Broker's license certificate."

2. The Employing Broker is the company, not a person. The Employing Broker's dba ("doing business as") is "Coldwell Banker Residential Brokerage." (Our legal name is NRT Arizona LLC.) The Employing Broker's name must be included in all newspaper advertisements, including classified ads, real estate advertising guides, and other magazine ads.

- (a) In advertising flyers, the Employing Broker's name must be located on either the top or the bottom of the flyer.
- (b) On any other promotional material the Employing Broker's name must be on the front page or front of the object.
- (c) The Employing Broker's name must be spelled out in its entirety. No shortcuts are permissible (i.e. using just "Coldwell Banker" is unacceptable.)

## **B. The Employing Broker's Name Must Be on Each Page of Sales Associate's Website and/or Blog**

The Employing Broker's name must be on each page of Sales Associate's website and/or blog. Websites, emails or blogs that target Arizona residents with the offering of a property interest or real estate service also constitute advertising and is a regulated activity. A.R.S. 32-2163(D) and A.A.C. R4-28-502(L). The Employing Broker's name must be visible on the first page of the web page and/or blog, without the necessity of scrolling down, regardless of the screen size of the computer. Web pages and/or blogs must identify the Employing Broker's name on each page.

Per NAR Code of Ethics, all agent websites and or blogs must state that the agent is an Arizona real estate licensee (or similar wording) in "a reasonable and readily apparent manner."

Sales Associate shall present a true picture in representations to the public, including information presented, provided or displayed on Sales Associate's websites. Sales Associate shall use reasonable efforts to ensure that information on their websites is current.

## **C. Teams Must Comply with the Same Advertising Rules**

Sales Associate may use the terms "team" or "group" to advertise and promote real estate services if the team or group is comprised of licensed real estate salespersons or brokers who are employed by the same broker. When advertising as a team, the same advertising rules apply as when advertising as an individual broker or salesperson. All team advertising must identify the Employing Broker in a clear and prominent manner. For example, placing "The (Team Name) Team" at the top of the page in large letters

with a much smaller brokerage symbol somewhere below (often at the bottom of the page) is not sufficient. The ad must be clear that the team is a part of the brokerage.

#### **D. Offers of a Premium at No Cost**

Sales Associate shall not describe a premium offered at no cost or reduced cost to promote sales or leasing as an “award,” or “prize,” or use a similar term.

Sales Associate shall clearly disclose in writing in any premium offer the terms, costs, conditions, restrictions, and expiration date of an offer of a premium before any person participates in the offer. (Examples of this would be a free home warranty, free pool service for a year, etc.)

#### **E. Other Advertising Rules**

1. The Fair Housing Logo must be on all marketing and advertising material.
2. All advertising must contain accurate claims and representations, and fully state factual material relating to the information advertised. For example, if Sales Associate publishes recent sales in the area, the source of the information must be noted (i.e. MLS) and the exact dates of the sales disclosed. If the Sales Associate did not participate in all of the sales, there must be a published statement that the properties have been listed or sold by various MLS participants.
3. The Sales Associate’s name must be set forth in a manner that would enable a consumer to find the licensee’s license information on the ADRE’s records (including website). For example, if you use a nickname, you should be licensed as such – Margaret “Peggy” Smith, or John “Skippy” Jones. Then Peggy Smith and Skippy Jones are acceptable.
4. Sales Associates shall not advertise property in a manner that implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange.
5. Sales Associates advertising their own property for sale must place the words “owner/agent” in the advertisement along with the Employing Broker’s name.
6. Sales Associate who advertises any property that is listed with another Broker must display the name of the Listing Broker in a clear and prominent manner.
7. Sales Associate shall secure the written consent of the property owner, before placing or erecting a sign giving notice that specific property is being offered for sale, lease, rent, or exchange, and the sign shall be promptly removed upon request of the property owner.
8. Sales Associate acknowledges that the use of an electronic medium, such as the Internet or website technology, that targets residents of this state with the offering of a property interest or real estate brokerage services pertaining to property located in this state constitutes the dissemination of advertising and is subject to the same policies and procedures as other media.

9. The term “acre,” either alone or modified, may be used only if referring to an area of land representing 43,560 square feet.

#### **F. Open House Signs**

All For Sale and Open House signs must meet Coldwell Banker identity standards which can be found on InsideAZmoves.com. Any personalized For Sale sign which include the agent’s name and personal phone number and any personalized Open House sign will be purchased at the agent’s expense. The company will pay for For Sale Signs that include only the Branch Office phone number and generic CB Open House signs.

#### **G. NRT Advertising Rules**

Agent websites and every piece of NRT printed literature, excluding stationery, must contain the following legal disclaimer:

“© 2018\_\_ [use current year] Coldwell Banker Real Estate LLC. Coldwell Banker® is a registered trademark licensed to Coldwell Banker Real Estate LLC. An Equal Opportunity Company. Equal Housing Opportunity. Owned and Operated By a Subsidiary of NRT LLC.”

The Fair Housing Logo must also be present.

The disclaimer for stationery is as follows: “Owned and Operated by a Subsidiary of NRT LLC”

### **XI. USE OF SOCIAL MEDIA IN THE REAL ESTATE BUSINESS**

Social Media as used in this policy shall apply to both activities at Sales Associate’s websites (e.g. blogging) and use of third party social media tools (e.g. Facebook, Twitter, LinkedIn, etc.). Because there already exist hundreds of different Social Media tools which may be utilized by Sales Associates and more are constantly being created, the provisions of this policy are to be interpreted generally to apply to the types of interaction Sales Associate has with social media service rather than to specific websites and providers.

The scope of this policy shall extend to all uses of social media in connection with the real estate business. Use in connection with the real estate business includes any use in which Sales Associate seeks to promote or capture real estate business from consumers or other sales associates. This policy is not intended to cover the activities of sales associates falling completely outside the real estate business; however, any conduct which reflects adversely upon the Company may be reviewed under the terms of this policy.

Notwithstanding anything in this policy, it is the responsibility of Sales Associate to assure that the content, operation and use of any social media site conforms to and complies with the requirements of the license laws and regulations governing real estate business and the conduct of licensees, including where necessary, identifying Sales Associate and/or the Company, fair housing, antitrust, local, state and federal laws and regulations and NAR’s Code of Ethics.

## **A. Blogging**

1. Sales Associate shall be responsible for informing his/her Managing Broker to obtain approval of any blogging site maintained by Sales Associate and providing him/her with the information necessary to subscribe to the blog.

### 2. Terms of Use

(a) The process for governance of use for the blog is as follows:

- (i) Sales Associate shall create the terms of use and allow them to be reviewed by his/her Managing Broker prior to the launch of the blog.
- (ii) Sales Associate shall make the terms of use available to his/her Managing Broker upon request.

(b) The terms of use shall include:

- (i) Users shall abide by any legal requirements related to the use of the blog and the site's terms of use for the blog including specifically its privacy policy. Users shall be responsible for their conduct on the site.
- (ii) Obtain clear authority from users to utilize anything the user includes on the site.
- (iii) Prohibit the unauthorized use of third party content.
- (iv) Prohibit the posting of content which infringes on the rights of any third party.
- (v) Prohibit the posting of content which expresses a preference based upon an individual's membership in a protected class.
- (vi) Prohibit the use of the site to post content or any material that is obscene, profane, defamatory, libelous, threatening, harassing, abusive, discriminatory, embarrassing or hateful towards another person or entity, including Coldwell Banker, its employees, contractors, business partners, competitors, customers, clients, vendors and other business-related individuals or organizations.
- (vii) Provide a take-down policy in the event any prohibited content or materials are posted to the site.
- (viii) Disclaim responsibility for any third-party sites linked to through the site.
- (ix) Generally disclaim and limit any liability arising from the content of the site whether provided by Sales Associate or a user.
- (x) Provide a privacy policy consistent with the site's privacy policy.

3. Sales Associate shall not pay or provide anything of value to another party in consideration of comments placed on the blog.

### 4. Identification

(a) Sales Associate shall identify himself/herself when establishing a blog in such a way that users of the blog shall know Sales Associate's name, their status as a



real estate licensee and the full name of the Company.

- (b) In any posting related to the Company, Sales Associate shall assure that Sales Associate's relationship to the Company is clear to avoid violation of the FTC rules.
- (c) Sales Associates shall not participate in the blog of another party without disclosing their identity and the Company.

5. Responsibility for Maintenance

- (a) All blogging must be monitored by Sales Associate for false, defamatory, demeaning, or degrading comments at least once per day.
- (b) Sales Associate is responsible for removing or clarifying any comment if Sales Associate knows that it is false or misleading.

6. The Company must be notified of any offer of compensation to the Sales Associate for real estate related services communicated or established through the blog.

**B. Use of Third-Party Social Media Sites (Facebook, YouTube, Twitter, etc.)**

Sales Associate is required to read and be familiar with the policies and requirements of any site on which he/she participates and to comply with the requirements of that site. In particular, Sales Associate should know the privacy practices and policies of the sites. Where options are provided, Sales Associate shall select an option which provides a level of protection to users of Sales Associate's social media site that is consistent with the level of protection afforded by the Company at the Company's website.

Sales Associate should remain aware that items posted on social media sites may be forwarded or used for purposes other than originally intended. Sales Associate should be aware of this when determining what to include on their social media sites.

**C. Posting of Professional Contacts/Qualifications (e.g., LinkedIn)**

- 1. Sales Associate is responsible for assuring that any listing of qualifications, credentials or training contained on the site is current, accurate and not misleading. Any changes to the foregoing shall be promptly revised on the site.
- 2. Sales Associate shall not falsely claim association with any person or group.

**D. Posting of Text (e.g., Facebook, Instagram, Twitter, Snapchat, etc.)**

- 1. All text shall be Sales Associate's own and not plagiarized or copied from another party without that party's permission. This shall not prohibit the use of reasonable quotations from the writings of others or writing for which Sales Associate has received permission to use or using writings consistent with the practices of the site (e.g., retweeting). No content which infringes on the rights of any third party may be used.

2. Sales Associate may write regarding the listings of other licensees within the Company.
3. Sales Associate may write regarding the listings of other brokers as long as he/she names the Listing Broker in a clear and prominent manner.
4. Sales Associate shall assure that writings do not contain unauthorized disclosures of confidential information of clients, customers or the Company.

**E. Posting of Comments to Social Media Pages of Others**

1. Any statement regarding the Company shall clearly disclose Sales Associate's relationship to the Company.
2. Sales Associate shall disclose his/her status as a real estate professional as a part of any real estate related statement.
3. Sales Associate shall not accept compensation for placing a comment on a site.

**F. Posting of Audio/Video and Photos (YouTube and Flickr)**

1. Sales Associate is responsible for assuring that that he/she is authorized to use any photo or audio/video posted to the site to avoid copyright issues.
2. Sales Associate shall secure permission to post for marketing purposes the image of another person on the site.
3. If an image has been altered in any way by Sales Associate, the fact that the image is altered shall be disclosed.

**XII. POSTAGE**

Office postage is to be used for business purposes only and it must have CB's return address on it to be processed. Bulk mail, special mailings and overnight courier, etc. are provided at Sales Associate's sole expense.

**XIII. COPY MACHINE / SCANNER / FAX MACHINE**

Copy machines, scanners and fax machines are for business use only. Flyers, mailings and any other use require the prior approval of the Managing Broker.

**XIV. TELEPHONES**

Office telephones are for local calls only. Long distance calls from the office must be for business-related purposes only. The office will not accept collect calls.

**XV. ELECTRONIC/DIGITAL SIGNATURES**

The Company will accept digital/electronic signatures on transaction documents. However, there are some lenders who may not accept digital signatures and there are also

certain documents that will be recorded that must have live signatures. Sales Associate should check with the title company if there is any doubt regarding the acceptance of a digital/electronic signature on any document.

## **XVI. ELECTRONIC COMMUNICATIONS**

Use of Company provided information technology resources, including electronic communications, email systems, and Internet access shall be limited to real estate brokerage business purposes. Uses that are expressly prohibited include but are not limited to access to and/or disseminating pornography, spam, chain letters or malicious email; conducting any business enterprise other than Company real estate business; permitting any third-party usage; or engaging in any illegal activity.

## **XVII. CYBER SECURITY AND WIRE FRAUD**

### **A. Overview**

Cyber security threats and wire fraud are on the rise. Criminals find creative ways to breach cyber security which could have negative results such as loss of monies, exposure of confidential information, identity theft, etc. The purpose of these policies is to outline the appropriate use of technology to safeguard business transaction files.

### **B. Cyber Security**

1. Passwords
  - a. Use strong passwords by making them unique and complex.
  - b. Regularly change passwords.
  - c. Do not use the same password for all accounts.
2. Email Security
  - a. Do not open any suspicious emails, click on any links, or open any attachments; delete these emails.
  - b. Clean out your email account on a regular basis.
  - c. Use your encrypted Company email address when sending sensitive or confidential information.
3. Wireless Use Security
  - a. Use encrypted wireless for work matters.
  - b. Stay away from free / unsecured Wi-Fi (i.e., coffee shops, hotels, libraries, restaurants).
  - c. Consider using a Virtual Private Network (VPN).
4. Use of Electronic Devices
  - a. Lock your screen or log out when you walk away from your device to prevent unauthorized access.
  - b. Report stolen or lost devices.
5. Software
  - a. Antivirus and firewall software should be regularly monitored and updated.
  - b. Data should be backed up on several different platforms.
6. Record Keeping/Disposal
  - a. **Shred any and all documents that contain personal information such as account numbers, driver's license number, social security number, credit card, debit card numbers, etc.**

7. Social Media
  - a. Do not post transactional information on social media such as names and addresses as this information may be used by criminals.

### **C. Wire Fraud**

1. Client Discussions
  - a. Discuss with your client your communication practices so the client knows what to expect and can exercise caution if contacted by a different means than previously discussed.
  - b. Provide our Wire Scam Alert to clients describing wire fraud risk.
2. Transactional Wire Instructions
  - a. Prior to wiring funds, advise your client to contact the intended recipient via a verified telephone number to confirm the wiring information is accurate.
  - b. **Advise your client not to respond to any emails changing wire instructions by replying to that email or calling the number contained in the email.**
  - c. Consider including in your email signature a warning about wire fraud.
    - NAR suggests the following:  
**IMPORTANT NOTICE:** Never trust wiring instructions sent via email. Cyber criminals are hacking email accounts and sending emails with fake wiring instructions. These emails are convincing and sophisticated. 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 that the wiring instructions are correct.
3. Evaluate communications
  - a. Thoroughly review emails, texts and other forms of communications for typos and suspicious links.
  - b. Do not click on links.
  - c. Only call trusted phone numbers.
4. Other – Include any other items of importance.

### **D. Reporting Cyber Crime**

If you become aware of a breach of data or wire fraud, you should:

1. Contact the sender of the funds so that they can contact their bank to try to stop the funds from being delivered.
2. Notify the Company immediately.
3. Notify all affected parties so that they may take appropriate action.
4. Change all of your passwords and username.

## **XVIII. SALES MEETINGS**

Sales meetings are held regularly on a day designated by each Managing Broker and all Sales Associates are encouraged to attend. A tour of new listings may follow the meeting. Sales meetings serve as a medium of disseminating important information, business promotions, and/or policy changes.

## **XIX. VACATION/UNAVAILABILITY COVERAGE**

The Managing Broker and receptionist must be notified when Sales Associate plans to be out of town or otherwise unable to return calls for more than 24 hours. An unavailable Sales Associate should designate another CB Sales Associate to be responsible for covering for the unavailable Sales Associate. Failure to do so may require the Managing Broker to assign another CB Sales Associate to handle the unavailable Sales Associate's business for a fee.

## **XX. UNLAWFUL HARASSMENT POLICY**

### **A. Policy**

CB prohibits conduct that constitutes or could lead or contribute to harassment based on race, color, religion, national origin, citizenship, age, sex (whether or not of a sexual nature), gender, sexual orientation, sexual preference, veteran status, marital status, disability, or any other characteristic protected under applicable laws and regulations ("protected characteristics").

Examples of such conduct include, but are not limited to:

- ethnic slurs;
- use of computers (including via the Internet) or electronic mail system to view or distribute racially offensive communications or those of a sexual nature;
- threatening, intimidating, or hostile acts directed at a particular sex or religious group or directed at any individual because of his or her sexual orientation, color or ethnicity.

Unlawful harassment may be committed by and between individuals who may or may not share the same protected characteristics, such as race or age.

Harassment does not require an intent to offend. Thus, inappropriate conduct meant as a joke, a prank, or even a compliment can lead or contribute to harassment.

Sexual harassment is any form of misconduct that interferes with work productivity and wrongfully deprives others of the opportunity to work in an environment free from unsolicited and unwelcome sexual advances, requests for sexual favors and other such verbal or physical conduct. Sexual harassment has many different definitions, and it is not the intent of this policy to limit the definition of sexual harassment, but to give Sales Associates as much guidance as possible concerning what activities may constitute sexual harassment.

Prohibited conduct includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other similar verbal or physical contact of a sexual nature.

Behavior may constitute sexual harassment no matter how delivered - in person, electronically or otherwise - or to whom, i.e. female to male, female to female, male to female, or male to male.

Behavior that may seem innocent or acceptable to some people can constitute sexual harassment to others. Such behaviors include, but are not limited to:

- Unwelcome sexual flirtations, advances, jokes or propositions;
- Unwelcome comments about an individual's body or personal life;
- Openly discussing intimate details of one's own personal life;
- Sexually degrading words to describe an individual;
- The display in the workplace of objects, pictures, cartoons or writings that might be perceived as sexually suggestive.

CB will not tolerate any conduct that constitutes or could lead or contribute to unlawful harassment, toward or by its employees, sales associates, clients or vendors.

## **B. Complaint Procedures**

1. A Sales Associate who feels that he/she has been a victim of unlawful harassment of any kind, should bring the matter to the attention of his/her Managing Broker immediately. If the Sales Associate feels that due to the nature of the situation the complaint cannot be discussed with the Managing Broker, he/she should direct the complaint to the Human Resources Manager or to the next level of management.
2. The Managing Broker will immediately notify the Human Resources Manager of any complaint received.
3. All complaints will be promptly and thoroughly investigated by the Human Resources Manager, following the same policies and procedures used by the Human Resources Department in the investigation of unlawful harassment complaints involving CB employees.
4. Upon completion of an investigation, Human Resources will recommend appropriate measures to be taken which, depending, on severity, may include discipline up to and including termination of the business relationship between CB and the harasser.

Retaliation against anyone for reporting incidents of unlawful harassment or for cooperating with the investigation of a harassment complaint is prohibited and will not be tolerated by CB.

All sales associates are expected to avoid any behavior or conduct that could be interpreted as unlawful harassment. All Sales Associates are responsible to inform any individual directly whenever that individual's behavior is unwelcome, offensive, in poor taste, or inappropriate.

## **XXI. CLAIMS, LEGAL PROCEEDINGS, ADMINISTRATIVE PROCEEDINGS AND INTERNAL DISPUTE RESOLUTION POLICIES AND PROCEDURES**

### **A. Legal Assistance Program<sup>2</sup>**

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<sup>2</sup> In some regions of Arizona, the payment terms for the Legal Assistance Program Fee may vary from this stated policy. Consult with the Managing Broker.

Sales Associate shall execute a Legal Assistance Program (“LAP”) Agreement in order to participate in CB’s Legal Services Program. The Legal Assistance Program fee is included in Sales Associate’s monthly Agent Success Package (“ASP”) fee. Sales Associates may attend specified risk reduction classes in order to qualify for any discount in the annual Legal Assistance Program Fee that CB may offer. The Legal Assistance Program Fee is a non-refundable fee and no portion of it will be refunded to Sales Associate who disassociates with CB. CB reserves the right to modify the Legal Assistance Program Agreement and Fee at any time.

1. **Introduction.** The provisions of this policy establish the respective rights and duties of Sales Associate and/or CB when a covered claim, lawsuit or legal proceedings involves Sales Associate and/or CB.
2. **Definition of “Covered Claim”; Benefits to Sales Associate.** A “covered claim” means a claim made against CB or Sales Associate, or both, for monetary damages, mediation, arbitration, or any civil proceedings seeking damages or rescission against CB and/or Sales Associate, arising out of Sales Associate’s alleged acts or omissions within the scope and authority of the Independent Contractor Agreement between Sales Associate and CB and which are not excluded or excepted herein. Sales Associate and CB will be jointly represented by Legal Counsel approved by CB. If Sales Associate elects to have their own counsel, it shall be at their own expense.
3. The following matters are not part of the LAP Claims:
  - (a) Any activities that fall outside the course and scope of Sales Associate’s Independent Contractor Agreement with the Company;
  - (b) Any claim or investigation regarding intentional, fraudulent, dishonest, criminal or malicious acts or omissions including concealment or intentional misrepresentation;
  - (c) Unfair competition, piracy, theft of any real or personal property, the wrongful taking of concepts or other intellectual property and/or commingling of funds;
  - (d) Property damage directly caused by Sales Associate;
  - (e) Bodily injury directly caused by Sales Associate;
  - (f) Matters arising out of Sales Associate’s ownership, use or operation of a motor vehicle;
  - (g) Unlawful discrimination, humiliation, harassment or misconduct of protected classes as defined by the federal and/or state fair housing laws;
  - (h) Commission claims or disputes regarding compensation;
  - (i) Environmental clean-up claims;
  - (j) Matters arising from a data breach of a third-party email account, e.g. Yahoo! or Gmail, used by Sales Associate to perform activities within the scope of Sales Associate’s duties under the Independent Contractor Agreement.
  - (k) Any claim made by Sales Associate at any time and for any reason against the Company or any other sales associate affiliated with the Company;
  - (l) Any claim concerning the Sales Associate’s activities as a principal in the transaction or where Sales Associate has a financial interest in the property that is the subject of the claim;
  - (m) Any punitive or exemplary damages awarded as part of a judgment or arbitration;

- (n) Matters arising out of a violation of the Company's Do Not Contact Policy. This includes, without limitation, matters arising from any marketing activities (e.g. calls, emails, texts, faxes), performed by a third party on your behalf or at your direction, that are alleged to violate any state or federal laws governing such activities (e.g., Do Not Contact laws);
  - (o) Any claim for sexual harassment or hostile work environment;
  - (p) Any fines, sanctions, or penalties including, but not limited to, State and Federal RESPA laws, Do Not Contact laws, and Association of Realtors® disciplinary proceedings;
  - (q) Any loss that results from the valuation of a business independent of any property that is sold;
  - (r) The failure to purchase or maintain any insurance or bonds; and/or
  - (s) Sales Associate's failure to cooperate in the defense of the claim.
4. **Cooperation.** When a claim arises, Sales Associate shall cooperate with CB and its Legal Counsel and shall assist in the investigation and defense. Sales Associate shall immediately (within 24 hours) notify CB of each claim and shall immediately (within 24 hours) provide CB with all demand letters, legal papers and other documents, which might relate to that matter and/or any other documents requested by Legal Counsel for CB. Sales Associate shall not make any payments, meet with any other party's lawyer, make any admissions, statements or claims, settle any claims, assume any obligation or incur any expense without the prior written consent of CB. CB retains the right to settle any and all claims, in its sole discretion.
5. **Exceptions.**
- (a) In the event that Sales Associate is investigated by and/or needs to be defended before a state licensing board, peer review committee or governmental regulatory body as a result of a notice of a proceeding, which arises out of an act, error or omission otherwise covered by this Policy, then the CB's LEGAL ASSISTANCE PROGRAM shall be limited to the payment up to \$2,500 for attorney's or consultant's fees actually incurred. However, any fine charged or levied against Sales Associate shall be solely the responsibility of Sales Associate, who shall pay said fine within the mandated time frame.
  - (b) If, after there is a joint defense of CB and Sales Associate, an actual conflict arises in representation between CB and Sales Associate, then joint representation will be terminated and Legal Counsel for CB will withdraw from representing Sales Associate, and Sales Associate will be advised to seek separate counsel. In the event that a conflict is declared, Sales Associate agrees that Legal Counsel for CB may continue to represent CB.
6. **Indemnification.** Sales Associate shall indemnify and hold CB harmless from all losses and damages, including attorney fees and costs, which CB incurs or becomes liable for resulting from any excluded claim or for breach of the Independent Contractor Agreement and/or Legal Assistance Program Agreement by Sales Associate.



7. **Duration.** The provisions of this Legal Services Program and Sales Associate's Legal Assistance Program Agreement shall survive the termination of the Independent Contractor Agreement. CB reserves the right to modify the CB Legal Service Program at any time.

#### **B. Association of REALTORS® Arbitration Complaints**

It will be at the Designated Broker's sole discretion whether to file a request for an Arbitration hearing with the local Association of REALTORS®. Awards and/or judgments of Arbitration by the local Association of REALTORS® shall be shared and paid by CB and the Sales Associate in the same proportion as commissions are split in accordance with the applicable year's Independent Contractor commission agreement. The initial filing/answer fees shall be paid by the Sales Associate requesting (or responding to) the Association of REALTORS® Arbitration.

#### **C. Internal Commission Disputes**

1. **Commission Disputes Between Sales Associates.** Commission disputes arising between or among Sales Associates shall be submitted to a neutral arbitration committee or Managing Broker selected by CB. The decision of the arbitration committee or manager will be final and binding upon all parties. Sales Associate will notify CB of any dispute in writing addressed to the attention of the Managing Broker of the branch sales office where Sales Associate is or was associated. Sales Associate and other CB Sales Associate may mutually agree that the Designated Broker initiate mediation with the Arizona Association of REALTORS® before submitting an arbitration request. All attorney fees, if any, shall be paid by the non-prevailing party.
2. **Commission Disputes Between CB and Sales Associate.** Commission disputes arising between CB and Sales Associate shall be submitted to mandatory, binding arbitration. Each party shall notify the other of any commission dispute prior to filing a claim in arbitration. Within a reasonable period of time of such notice, the parties shall meet informally to attempt to resolve the dispute in good faith.

In the event the parties are unable to resolve their dispute, either party may initiate an arbitration under the then-current JAMS' Streamlined or Comprehensive Arbitration Rules and Procedures. The applicable arbitral rules are available for review at [www.jamsadr.com](http://www.jamsadr.com) (under the Rules/Clauses tab). Any costs unique to arbitration (such as the costs of the arbitrator and room fees) will be paid by CB and the parties will otherwise bear their own fees and costs, including attorney's fees and expert fees.

#### **D. Claim, Complaint and Legal Process Handling Procedures**

1. **Client/Customer Complaint Letters.** All complaint letters must be given to the Managing Broker. A copy of the complaint letter shall be sent to the Designated Broker, with an explanation of the status and/or plan of action and continue to update as needed.

2. **Attorney Letters.** Any attorney’s letter must be immediately given to the Managing Broker. Sales Associate must also immediately prepare a thorough written chronology of what occurred addressed to CB’s Legal Counsel, marked “Attorney-Client Privileged”. The Managing Broker will then forward the written chronology along with a copy of the entire transaction file to the Designated Broker, for review and/or response.
3. **Lawsuit Subpoena for Production of Records.** Branch Offices are not empowered to accept the service of subpoenas for CB’s records or addressed to CB’s “custodian of records.” Any process server attempting to serve a subpoena for records should be informed that they must serve the subpoena at the Home Office.
4. **Lawsuit Subpoena Issued to NRT Arizona LLC and/or Affiliated** Branch Offices are not empowered to accept the service of subpoenas for NRT Arizona LLC. Any process server attempting to serve a subpoena on NRT Arizona LLC should be informed that they must serve the subpoena at the Home Office.
5. **Lawsuit Subpoena to Sales Associate.** A lawsuit subpoena addressed to an individual Sales Associate should be accepted by the named Sales Associate. At the time of service, the Sales Associate should note the date and time the subpoena was served on the face of the actual subpoena and immediately contact the Designated Broker and provide the Designated Broker with a complete copy of the subpoena.
6. **Lawsuit Summons and Complaint.**
  - (a) All lawsuit summons and complaints addressed to NRT Arizona LLC must be served at the Home Office.
  - (b) A lawsuit summons and complaint addressed to an individual Sales Associate must be personally served on that Sales Associate, who at the time of service should note the date and time the summons and complaint were served on them on the face of the actual summons and immediately contact the Designated Broker and provide the Designated Broker with a complete copy of the summons and complaint as well as copies of any additional documents served with the summons and complaint. The Sales Associate must also immediately prepare a thorough written chronology of what occurred addressed to CB’s Legal Counsel, marked “Attorney-Client Privileged”.
7. **Arizona Department of Real Estate or Association of REALTORS® Complaints.** ADRE and Association complaints mailed to the Branch Office must be immediately marked with the date of receipt on the face of the actual complaint and sent together with the original envelope in which the complaint was received to the Designated Broker. Sales Associate named in the complaint shall immediately prepare and send the Designated Broker a written chronology and Sales Associate’s proposed response to the complaint. The Designated Broker will then prepare a formal response with Sales Associate. Sales Associate shall not submit any formal response to the ADRE or Association without the Designated Broker’s express prior approval.

8. **Writ of Garnishment and/or Wage Assignments.** Writs of Garnishment are served by a process server; Wage Assignments may be served by a process server or served by mail. At the time of service or receipt, the recipient should note the date, time and their name on the documents received and send all documents received to the Home Offices to the attention of the Designated Broker.
9. **Internal Revenue Service Tax Levy or Arizona Department of Revenue Tax Levy.** Tax levies mailed to the Branch Office at which the subject employee or Sales Associate is employed or associated should be marked with the date received on the levy and immediately sent with the envelope in which the Levy was received to the Home Office to the attention of the Controller.

## **XXII. FORMS**

CB uses a combination of AAR, MLS, local association and Company forms. All other forms are prohibited unless approved by the Designated Broker.

## **XXIII. LISTINGS**

All listings are the property of the Designated Broker. All listings are to be exclusive right to sell listings. CB does not permit exclusive agency listings.

### **A. Listing Cancellation**

DO NOT AGREE TO CANCEL A LISTING UNTIL YOU OBTAIN APPROVAL FROM THE MANAGING BROKER. If approved, the seller and Managing Broker shall execute the *CB Listing Cancellation Agreement*.

### **B. Listing File Documents**

The following documents are to be turned into your Managing Broker within 24 hours of receipt of the Seller's signature:

#### **1. CB Residential Listing**

- (a) *Exclusive Right to Sell/Rent Agreement/Contract*
- (b) *Residential Listing Profile Sheet*
- (c) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
- (d) *Short Sell Seller Advisory* (if a short sale)
- (e) *Short Sale Addendum to Listing Contract* (if a short sale)
- (f) *Real Estate Agency Disclosure and Election*
- (g) *Affiliated Business Arrangement Disclosure Statement*
- (h) *Referral Agreement* (if applicable)
- (i) *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazard* (if property built before 1978)
- (j) *Pool Safety Notice Receipt*, if applicable
- (k) *Market Conditions Advisory*
- (l) *Wire Scam Alert*
- (m) *Transaction Information Sheet*
- (n) *Residential Seller's Property Disclosure Statement*

- (o) MLS Listing printout
- (p) MLS Change orders
- (q) All rejected *Residential Resale Real Estate Purchase Contracts*
- (r) *Coldwell Banker Home Protection Plan Letter*
- (s) Explanation for submission of documents to Broker after 10 business days
- (t) Explanation for missing documents

2. **CB Residential Listing Sold by Co-Broker/CB Agent From Another Office** (The listing documents above and the documents below equal one file)

- (a) *Residential Resale Real Estate Purchase Contract*
- (b) Counter Offer(s) (if applicable)
- (c) *Pre-Qualification Form* (if applicable)
- (d) *Consent to Limited Representation* (if dual agency)
- (e) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
- (f) Addendum(da) (if applicable)
- (g) *Residential Seller's Property Disclosure Statement*
- (h) Earnest money deposit receipt
- (i) *Loan Status Update* (if applicable)
- (j) *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards form* (on properties built prior to 1978)
- (k) *Short Sale Addendum to Purchase Contract* (if a short sale)
- (l) *On-Site Wastewater Treatment Facility Addendum* (if applicable)
- (m) *Domestic Water Well Addendum* (if applicable)
- (n) *Domestic Water Well/Water Use Addendum SPDS* (if applicable)
- (o) *Short Sale Agreement Notice Addendum* (if a short sale)
- (p) *Residential Buyer's Inspection Notice and Seller's Response*
- (q) *Affidavit of Disclosure* (if applicable)
- (r) *Cure Period Notice* (if applicable)
- (s) *Transaction Information Sheet*
- (t) Order to Pay
- (u) Commission checks
- (v) *Settlement Statement*
- (w) Explanation for submission of documents to Broker after 10 business days
- (x) Explanation for missing documents

3. **CB Vacant Land Listing**

- (a) *Exclusive Right to Sell/Rent Agreement/Contract*
- (b) *Land and Lots Listing Profile Sheet*
- (c) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
- (d) *Short Sell Seller Advisory* (if a short sale)
- (e) *Short Sale Addendum to Listing Contract* (if a short sale)
- (f) *Real Estate Agency Disclosure and Election*
- (g) *Affiliated Business Arrangement Disclosure Statement*
- (h) Referral Agreement (if applicable)
- (i) *Market Conditions Advisory*
- (j) *Wire Scam Alert*
- (k) *Transaction Information Sheet*
- (l) *Vacant Land/Lot Seller's Property Disclosure Statement*

- (m) MLS Listing printout
  - (n) MLS Change orders
  - (o) All rejected *Residential Resale Real Estate Purchase Contracts*
  - (p) Explanation for submission of documents to Broker after 10 business days
  - (q) Explanation for missing documents
4. **CB Vacant Land Listing Cold by Co-Broker/CB Agent From Another Office**  
(The listing documents above and the documents below equal one file)
- (a) *Vacant Land/Lot Purchase Contract*
  - (b) Counter Offer(s) (if applicable)
  - (c) *Vacant Land/Lot Purchase Contract Addendum Regarding Subdivided or Unsubdivided Land* (if seller is a subdivider)
  - (d) *Pre-Qualification Form* (if applicable)
  - (e) *Consent to Limited Representation* (if dual agency)
  - (f) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
  - (g) Addendum(da) (if applicable)
  - (h) *Vacant Land/Lot Seller's Property Disclosure Statement*
  - (i) Earnest money deposit receipt
  - (j) *Loan Status Update* (if applicable)
  - (k) *Short Sale Addendum to Purchase Contract* (if a short sale)
  - (l) *On-Site Wastewater Treatment Facility Addendum* (if applicable)
  - (m) *Domestic Water Well Addendum* (if applicable)
  - (n) *Domestic Water Well/Water Use Addendum SPDS* (if applicable)
  - (o) *Short Sale Agreement Notice Addendum* (if a short sale)
  - (p) *Vacant Land/Lot Buyer's Due Diligence Notice and Seller's Response*
  - (q) *Affidavit of Disclosure* (if applicable)
  - (r) *Cure Period Notice* (if applicable)
  - (s) *Transaction Information Sheet*
  - (t) Order to Pay
  - (u) Commission checks
  - (v) *Settlement Statement*
  - (w) Explanation for submission of documents to Broker after 10 business days
  - (x) Explanation for missing documents

Consult the Managing Broker for any additional local requirements.

## **XXIV. SALES**

### **A. Sales Transaction Documents**

The following documents must be turned in to your Managing Broker as soon as possible:

- 1. **CB Residential Sale**
  - (a) *Residential Resale Real Estate Purchase Contract*
  - (b) Counter Offer(s) (if applicable)
  - (c) *Pre-Qualification Form* (if applicable)
  - (d) *Real Estate Agency Disclosure and Election*

- (e) Referral Agreement (if applicable)
- (f) *Consent to Limited Dual Representation* (if dual agency)
- (g) *Affiliated Business Arrangement Disclosure Statement*
- (h) *Market Conditions Advisory*
- (i) *Wire Scam Alert*
- (j) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
- (k) *Short Sale Addendum to the Purchase Contract* (if a short sale)
- (l) Addendum(da) (if applicable)
- (m) *Property Inspection Notice/Waiver* with Buyer Advisory box initialed by buyer
- (n) *On-Site Wastewater Treatment Facility Addendum* (if applicable)
- (o) *Domestic Water Well Addendum* (if applicable)
- (p) *Domestic Water Well/Water Use Addendum SPDS* (if applicable)
- (q) Earnest money deposit receipt
- (r) *Residential Seller's Property Disclosure Statement*
- (s) *Loan Status Update* (if applicable)
- (t) *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards form* (if property built before 1978)
- (u) *Short Sale Addendum Agreement Notice* (if a short sale)
- (v) *Residential Buyer's Inspection Notice and Seller's Response*
- (w) *Affidavit of Disclosure* (if applicable)
- (x) *Cure Period Notice* (if applicable)
- (y) *Buyer Pre-Closing Walk-Through* or waiver
- (z) MLS Listing printout
- (aa) *Transaction Information Sheet*
- (bb) Order to Pay
- (cc) Commission checks
- (dd) *Settlement Statement*
- (ee) Explanation for submission of documents to Broker after 10 business days
- (ff) Explanation for missing documents

**2. CB New Construction Sale (Builder Subdivisions Only)**

- (a) *Real Estate Agency Disclosure and Election*
- (b) Referral Agreement (if applicable)
- (c) *Market Conditions Advisory*
- (d) *Wire Scam Alert*
- (e) *Affiliated Business Arrangement Disclosure Statement*
- (f) Builders registration form showing commission to broker
- (g) Purchase Contract
- (h) Addendum(da)
- (i) Earnest money deposit receipt
- (j) Public Report Receipt
- (k) *Transaction Information Sheet*
- (l) Order to Pay
- (m) Commission checks
- (n) *Settlement Statement*
- (o) Explanation for submission of documents to Broker after 10 business days
- (p) Explanation for missing documents

**3. CB Vacant Land Sale**

- (a) *Vacant Land/Lot Purchase Contract*
- (b) Counter Offer(s) (if applicable)
- (c) *Vacant Land/Lot Purchase Contract Addendum Regarding Subdivided or Unsubdivided Land* (if seller is a subdivider)
- (d) *Pre-Qualification Form* (if applicable)
- (e) *Real Estate Agency Disclosure and Election*
- (f) Referral Agreement (if applicable)
- (g) *Consent to Limited Dual Representation* (if dual agency)
- (h) *Affiliated Business Arrangement Disclosure Statement*
- (i) *Market Conditions Advisory*
- (j) *Wire Scam Alert*
- (k) *H.O.A. Condominium/Planned Community Addendum* (if applicable)
- (l) *Short Sale Addendum to the Purchase Contract* (if a short sale)
- (m) Addendum(da) (if applicable)
- (n) *Property Inspection Notice/Waiver* with Buyer Advisory box initialed by buyer
- (o) *On-Site Wastewater Treatment Facility Addendum* (if applicable)
- (p) *Domestic Water Well Addendum* (if applicable)
- (q) *Domestic Water Well/Water Use Addendum SPDS* (if applicable)
- (r) Earnest money deposit receipt
- (s) *Vacant Land/Lot Seller's Property Disclosure Statement*
- (t) *Loan Status Update* (if applicable)
- (u) *Short Sale Addendum Agreement Notice* (if a short sale)
- (v) *Vacant Land/Lot Buyer's Due Diligence Notice and Seller's Response*
- (w) *Affidavit of Disclosure* (if applicable)
- (x) *Cure Period Notice* (if applicable)
- (y) *Buyer Pre-Closing Walk-Through* or waiver
- (z) MLS Listing printout
- (aa) *Transaction Information Sheet*
- (bb) Order to Pay
- (cc) Commission checks
- (dd) Settlement Statement
- (ee) Explanation for submission of documents to Broker after 10 business days
- (ff) Explanation for missing documents

Consult the Managing Broker for any additional local requirements.

## **B. Earnest Money**

All earnest money must be deposited with a title company promptly according to the terms of the purchase contract. A title company earnest money receipt must be turned in to your Managing Broker. It is illegal for Sales Associate to hold the check in his/her possession once the contract has been accepted, unless otherwise agreed to in the purchase contract. Cash is not an acceptable form of earnest money. The buyer must secure a money order or cashier's check.

## **C. Purchase Contract Cancellations**

If a transaction cancels, the title company should prepare mutual cancellation instructions authorizing and instructing the holder of the earnest money as to whom to

disburse the monies. A copy of the fully executed cancellation must be given to the Managing Broker in order to close the file.

#### **D. Rejected Offers**

Any offers that are rejected on listings of CB must be turned in to the Managing Broker as Arizona law requires CB to keep the rejected offers in the listing file for a period of five (5) years. Rejected offers from buyer-controlled sales must be kept for one (1) year.

#### **E. General Sales Guidelines**

1. Sales Associate may not remove any documents from CB's transaction folder or remove the transaction folder from the office files. Sales Associate must keep his/her own files on transactions.
2. CB requires the Sales Associate to submit all fully executed contracts to their Branch Office within 72 hours for the Managing Broker's approval.
3. When representing the buyer, Sales Associate must advise the buyer to perform a walk through and prepare and sign a written walk-through inspection form. If the buyer elects not to perform a walk-through, the buyer must sign the waiver on the *Buyer Pre-Closing Walk-Through* form. The Sales Associate's failure to advise the buyer to perform a pre-closing walk through or to require the buyer to sign a waiver of a pre-closing walk-through may expose the Sales Associate to additional liability. Sales Associates are prohibited from performing the walk-through inspection and completing the *Buyer Pre-Closing Walk-Through* form.

### **XXV. LEASES**

#### **A. Credit Reports**

Due to stringent Federal guidelines, Sales Associates are not authorized to generate, review, fax and/or handle a credit report for a client or customer or prospective client or customer. If Sales Associate needs a credit report, he/she should have the prospective tenant/buyer complete the Coldwell Banker Lease Application form which authorizes a credit report and background check. That form should then be faxed or emailed to the Office of the Broker which will then request a credit report to be sent directly to the landlord/seller.

#### **B. Processing Paperwork**

Upon taking a lease listing or executing a Lease Agreement, the following documents must be turned in to your Managing Broker as soon as possible:

#### **C. Lease Listing File Documents**

- (a) *Exclusive Right to Sell/Rent (Listing Contract Legal Language) Agreement*
- (b) *Residential Profile Sheet*



- (c) *Real Estate Agency Disclosure and Election* and, if appropriate, *Consent to Limited Representation*
- (d) *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards* (if property built before 1978)
- (e) *Pool Safety Notice Receipt*(if applicable)
- (f) MLS Listing printout
- (g) MLS change orders
- (h) *Lease Transaction Information Sheet*
- (i) *Residential Lease Owner's Property Disclosure Statement*
- (j) *Lease Owner's Advisory*
- (k) All rejected Lease Agreements
- (l) Explanation for submission of contract to Broker after 10 business days
- (m) Explanation for missing documents

#### **D. Leased Transaction Documents**

- (a) *Residential Lease Agreement*
- (b) Counter Offer(s)
- (c) *Real Estate Agency Disclosure and Election*
- (d) *Consent to Limited Representation* (if dual agency)
- (e) Addendum(da) (if applicable)
- (f) Earnest money deposit receipt
- (g) *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazard*, (if built before 1978)
- (h) MLS Listing printout
- (i) *Lease Transaction Information Sheet*
- (j) *Residential Lease Owner's Property Disclosure Statement*
- (k) *Tenant Advisory*
- (l) Inventory List (optional)
- (m) Move In / Move Out Condition Checklist (optional)
- (n) Explanation for submission of contract to Broker after 10 business days
- (o) Explanation for missing documents

#### **E. Lease Deposits**

CB does not hold any type of deposits (security, cleaning or otherwise) and no deposits shall be payable to CB. The lease agreement should indicate where the deposit will be held. Unless otherwise instructed in the lease agreement, all deposit monies shall be payable to the landlord. Landlords may require the tenant pay their deposits by cashier's check. No lease deposits shall be payable to CB.

#### **F. Lease Commissions**

When we represent the landlord, the listing contract is our agreement with the landlord to pay the leasing commission. All lease commissions are earned at the time the Lease Agreement is fully executed. Our CB Lease Commission Invoice shall be used by the listing agent to complete and send to the landlord which shall state the commission to be paid to CB. This will include any co-broke commission to be paid. All commissions are to be paid based on the gross amount of the rent for the full lease term.

CB does not guarantee the performance of either party to a lease agreement. If either party breaches the lease agreement, CB will not refund any portion of our commission.

**XXVI. FILE RETENTION**

The records of each transaction and employment records shall be kept by the Company for a period of at least five years from the date of the termination of transaction or employment.

The duly authorized Managing Broker shall review each listing agreement, purchase or nonresidential lease agreement or similar instrument within 10 business days of the date of execution by placing the broker's initials and the date of review on the instrument on the same page as the signatures of the parties.

The Company shall retain all real estate purchase and nonresidential lease contracts and employment agreements, or copies of these documents, in the Employing Broker's principal office or licensed branch office or at an off-site storage location in this state if the broker provides prior written notification of the street address of the off-site storage location to the department.

The Company shall retain an original, a copy or microfilm copy of any document evidencing a rejected offer to purchase real property as a matter of record for at least one year. In instances that result in binding contracts, the Company shall retain prior rejected offers for at least five years.

The Company shall retain true copies of all receipts and disbursements, or copies of the executed and delivered escrow closing statements that evidence all receipts and disbursements in the transaction.

**XXVII. SALES ASSOCIATE'S DUTIES TO CLIENTS AND NON-CLIENTS**

Sales Associate owes a fiduciary duty to the client and shall protect and promote the client's interests. Sales Associate shall also deal fairly with all other parties to a transaction.

When acting as an agent for a client, Sales Associate owes duties of confidentiality, accountability, reasonable skill and care, loyalty, lawful obedience, accounting and disclosure.

Sales Associate participating in a real estate transaction shall disclose in writing to all other parties any information Sales Associate possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including:

1. Any information that the seller or lessor is or may be unable to perform;
2. Any information that the buyer or lessee is, or may be unable to perform;
3. Any material defect existing in the property being transferred; and
4. The existence of a lien or encumbrance on the property being transferred.

Sales Associate shall expeditiously perform all acts required by the holding of a license. Sales Associate shall not delay performance, either intentionally or through neglect.

Sales Associate shall not allow a controversy with another licensee to jeopardize, delay, or interfere with the initiation, processing, or finalizing of a transaction on behalf of a client. This prohibition does not obligate Sales Associate to agree to alter the terms of any employment or compensation agreement or to relinquish the right to maintain an action to resolve a controversy.

Sales Associate shall not act directly or indirectly in a transaction without informing the other parties in the transaction, in writing and before the parties enter any binding agreement, of a present or prospective interest or conflict in the transaction, including that the:

1. Sales Associate has a license and is acting as a principal;
2. Buyer or seller is a member of Sales Associate's, broker's, or Designated Broker's immediate family;
3. Buyer or seller is the Sales Associate's Employing Broker, or owns or is employed by the Sales Associate's Employing Broker; or
4. Sales Associate, or a member of the Sales Associate's immediate family, has a financial interest in the transaction other than the Sales Associate's receipt of compensation for the real estate services.

Sales Associate shall not accept compensation from or represent more than one party to a transaction without the prior written consent of all parties.

Sales Associate shall not accept any compensation, including rebate or other consideration, directly or indirectly, for any goods or services provided to a person if the goods or services are related to or result from a real estate transaction, without that person's prior written acknowledgement of the compensation. This prohibition does not apply to compensation paid to a broker by a broker who represents a party in the transaction.

The services that Sales Associate provides to a client or customer shall conform to the standards of practice and competence recognized in the professional community for the specific real estate discipline in which the Sales Associate engages.

Sales Associate shall not undertake to provide professional services concerning a type of property or service that is outside Sales Associate's or Broker's field of competence without engaging the assistance of a person who is competent to provide those services, unless Sales Associate's lack of expertise is first disclosed to the client in writing and the client subsequently employs the Sales Associate.

Sales Associate shall exercise reasonable care in ensuring that the Sales Associate obtains information material to a client's interests and relevant to the contemplated transaction and accurately communicates the information to the client. Sales Associate is not required to have expertise in subject areas other than those required to obtain the Sales Associate's license. Sales Associate shall take reasonable steps to assist a client in confirming the accuracy of information relevant to the transaction.

Sales Associate shall not:

1. Permit or facilitate occupancy in a person's real property by a third party without prior written authorization from the person; or
2. Deliver possession prior to closing unless expressly instructed to do so by the owner of the property or property interest being transferred.

## **XXVIII. PRESENTING OFFERS AND COUNTER OFFERS**

Sales Associate shall submit all offers and counter offers objectively and as quickly as possible. If Sales Associate is not available and cannot timely present a contract, he/she should make prior arrangements with a fellow CB Sales Associate to present the offer.

## **XXIX. COMPANY DISCLOSURE POLICY**

### **A. Agency**

CB represents the seller/landlord exclusively when it is the Listing Broker but not the selling/leasing Broker.

CB represents the buyer/tenant exclusively when it is the selling/leasing Broker and not the Listing Broker.

CB represents both the seller/landlord and buyer/tenant with limited representation (dual agency) when we are both the listing and selling/leasing Sales Associate, whether there is only one Sales Associate or two Sales Associates from the same Branch Office or Sales Associate from another Branch Office. **Agency is established with the Broker, not Sales Associate.**

CB will cooperate and co-broke with a selling/leasing licensee from any other brokerage company that either represents the seller/landlord exclusively or represents the buyer/tenant exclusively. If no MLS co-broke is offered, a separate written commission agreement is required.

CB does not allow "sub-agency."

### **B. Seller Representation**

1. Sales Associate shall always give the *Real Estate Agency Disclosure and Election Form* and the *Affiliated Business Arrangement Disclosure Statement* ("ABADS") to the seller/landlord prior to the seller's/landlord's signing of a listing. Sales Associate must discuss the contents of the READE form, and obtain a signed acknowledgment in the election section of the form. Additionally, the Sales Associate shall ensure that the seller/landlord reads, understands and signs the ABADS accompanying the form.
2. Sales Associate shall always confirm agency with buyers/tenants and sellers/landlords before an offer is presented by completing the agency confirmation section of the *AAR Residential Resale Real Estate Purchase Contract* ("Purchase Contract") or the *AAR Residential Lease Agreement* ("Lease Agreement"). If a

licensee from another company is using a form of contract other than the AAR Purchase Contract advise seller that AAR forms should be used.

3. Each listing file must contain a completed READE form and ABADS with the confirmation section of the AAR Purchase Contract or the AAR Lease Agreement completed.

### C. Buyer Representation

1. Sales Associate shall always give the READE Form and the ABADS to the buyer/tenant at the first substantive moment. "Substantive moment" is defined as that point at which you have started more than just a casual relationship with the buyer/tenant for the purpose of finding properties. Sales Associate must discuss agency and obtain a signed acknowledgment from the buyer/tenant in the election section of the form. Additionally, Sales Associate shall ensure that both the seller/landlord and buyer/tenant read and understand the ABADS that should accompany the READE form.
2. Prior to submitting the offer, Sales Associate shall complete the Agency Confirmation section of the AAR Purchase Contract or the AAR Lease Agreement stating that he/she is representing the buyer/tenant exclusively.
3. In the event that the transaction is an in-house sale/lease agreement, the selling/leasing Sales Associate will complete the Agency Confirmation section(s) of the AAR Purchase Contract or the AAR Lease Agreement to confirm that CB is the Broker for both the seller/landlord and buyer/tenant. **In all cases where the agency relationship is limited representation (dual agency), the seller/landlord and buyer/tenant should acknowledge this limited representation by completing the AAR Consent to Limited Representation form prior to the writing of the AAR Purchase Contract or the AAR Lease Agreement for the buyer/tenant and prior to the presentation of the AAR Purchase Contract or the AAR Lease Agreement for the seller/landlord.**

### D. Transaction Disclosures

1. **Affiliated Business Arrangement Disclosure Statement Policy.** CB has business relationships with several other companies that require disclosure under RESPA requirements, in that each of the companies is wholly or partially owned either directly or indirectly by CB or by Realogy Corporation. Because of these relationships, CB's referral of business to these companies may provide CB, our employees or other related parties a financial or other benefit. CB discloses this relationship information to the seller/landlord and buyer/tenant by a separate written ABADS at the beginning of each new transactional relationship with every client.
2. **Seller Disclosure Policy.** CB shall advise sellers to complete a *Residential Seller's Property Disclosure Statement* on every listing (except new construction that has not been completed at the time of the listing). This form must be completed by the seller, not Sales Associate. The seller must also prepare an updated SPDS when there is a material change in the information in the SPDS, and the updated SPDS must be delivered to the selling Sales Associate and buyer involved in a transaction or in

accordance with the terms of the Purchase Contract. Sales Associate's failure to advise the seller to prepare a SPDS at the time of listing and/or failure to advise the seller to prepare an updated SPDS if there is a material change may expose Sales Associate to additional liability.

(a) **Nonconforming Policy.** If for any reason, a seller refuses to complete the SPDS, see your Managing Broker before submitting the new listing to MLS. In many cases, banks, trusts, builders, relocation companies, etc. will decline to complete the SPDS, but prefer to use their own addendum. In such cases, the Sales Associate should secure his/her Managing Broker's approval.

(b) **General Guidelines.**

- (i) If the seller fails to fill out a line on the SPDS:
  - a. When CB is the Listing Broker, Sales Associate must point the blank line(s) out to the seller. If the seller chooses not to complete the line(s), Sales Associate must make a note to CB's transaction file indicating the seller's refusal to fill out that line(s).
  - b. When CB is the Selling Broker, Sales Associate must point out to the buyer the line(s) which the seller did not fill out and wait for the buyer's instructions on how the buyer wishes to proceed. Sales Associate must make a written note to CB's transaction file documenting the buyer's instructions.
- (ii) If there is a line(s) on the SPDS that has been filled out incorrectly (e.g. property is in a 100 year flood plain) or there are "red flags" indicating a line(s) has not been filled out correctly (e.g. there is evidence of termite treatment, yet the question pertaining to wood infestation has been answered "no"):
  - a. When CB is the Listing Broker, Sales Associate must question the seller regarding their response to the line(s) that appears to be incorrect. If the seller elects not to change the line(s), Sales Associate must make a note to CB's transaction file regarding the line(s) that is in question. When the SPDS is delivered to the Selling Broker, Sales Associate should point out the line(s) that is questioned. Sales Associate must make a note to CB's transaction file of this conversation with the Selling Broker.
  - b. When CB is the Selling Broker, Sales Associate must point out the line(s) in question and wait for the buyer's instructions. Sales Associate must make a written note to CB's transaction file documenting the buyer's instructions.

**XXX. WRAP-AROUND, CARRYBACK OR SUBORDINATION FINANCING**

Sales Associate must see his/her Managing Broker prior to presentation of any offer which proposes to wrap a loan, carryback a loan, or subordinate to a loan. When

authorized by the Managing Broker, the appropriate AAR *Seller Financing Addendum* or *Loan Assumption Addendum* to the AAR Purchase Contract form must be utilized.

**XXXI. UNUSUAL OFFERS AND/OR UNFAMILIAR PROPOSALS**

Sales Associate must consult with his/her Managing Broker prior to presentation of any unusual offers, including but not limited to “cash back,” Letters of Intent and Letters of Interest, creative financing, or any other unfamiliar contract provision or proposal.

All pre-possession and post-possession agreements between Sellers and Buyers shall be in writing. Additionally, Sales Associate must recommend, in writing, that his/her client seek appropriate counsel (including tax, legal, insurance, etc.) concerning risks associated with pre-possession and post-possession.

**XXXII. POOL BARRIER DISCLOSURE POLICY**

In all cases where a pool is located on the property, the seller must receive the Arizona Department of Health Services *Residential Pool Safety Notice* and execute the CB *Pool Safety Notice Receipt*. A signed copy of the form should be included in the transaction file.

Sales Association can obtain ADHS’s Residential Pool Safety Notice with CB’s Pool Safety Notice Receipt from InsideAZmoves.com or from CB’s zipForm library.

Sales Associate can also obtain the Pool Safety Notice from the Arizona Department of Health Service’s website or from the following link:

[http://azdhs.gov/phs/oeh/pool\\_rules.htm](http://azdhs.gov/phs/oeh/pool_rules.htm)

**XXXIII. AIRPORT DISCLOSURE**

Pursuant to Arizona law a seller shall provide a written disclosure to the buyer if the property is located in territory in the vicinity of a military airport or ancillary military facility as delineated on a map prepared by the state land department. The Department of Real Estate also is obligated to record a document at the county recorder’s office disclosing if the property is under restricted air space and to maintain the State Land Department Military airport map. Sales Associate may obtain maps defining the areas affected at ADRE’s website or from the following link:

<http://www.azre.gov/AirportMaps/AirportMaps.aspx>

When in the city of Surprise, Sales Associate is required to carry the Surprise city map showing military airport. Sales Associate may obtain copies of the map from the City of Surprise’s website or from the following link:

<http://www.surpriseaz.gov/DocumentView.aspx?DID=384>

**XXXIV. CLANDESTINE DRUG LAB DISCLOSURE**

Sales Associate must disclose if a property is or was the site of a Dangerous Drug Lab. The Board of Technical Registration provides a list of seized drug laboratory sites or sites where drug manufacturing chemicals were seized. These sites are reported to meet the A.R.S. § 12-990(1) definition of a “clandestine drug laboratory”. Sales Associate may obtain this list from the Board of Technical Registration’s website or from the following link:

[http://www.btr.state.az.us/listings/drug\\_lab\\_site\\_clean\\_up.asp](http://www.btr.state.az.us/listings/drug_lab_site_clean_up.asp)

**XXXV. FISSURE MAPS**

Sales Associate is required to disclose fissures as shown on earth fissure maps issued by the Arizona Geological Survey. Sales Associate may obtain fissure maps and information from the ADRE’s website or from the following link:

<http://www.azre.gov/PublicInfo/Fissures.aspx>

**XXXVI. LEAD BASED PAINT DISCLOSURE**

The U.S. Department of Housing and Urban Development (“HUD”) requires that any seller/landlord of residential real property built prior to 1978 to disclose to the potential buyer/tenant the possibility for or the existence of lead-based paint on the property. Additionally, the buyer/tenant is to receive a copy of the pamphlet “Protect Your Family from Lead in Your Home” and the *Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards*. HUD Lead Based Paint Information and Brochure may be found on HUD’s website or from the following link:

[www.hud.gov/offices/lead/healthyhomes/lead.cfm](http://www.hud.gov/offices/lead/healthyhomes/lead.cfm)

**XXXVII. SUPERFUND AND WQARF SITE DISCLOSURE**

Certain areas have been classified by the Federal Government and by the State of Arizona as “environmentally impacted” areas. Sales Associates must make themselves familiar with the maps regarding these areas and fully disclose to any buyers of properties located in these areas using CB’s *Environmental Disclosure Statement Superfund Information*.

Sales Associate may obtain information and maps regarding these areas from the Arizona Department of Environmental Quality’s website or from the following link:

<http://www.azdeq.gov/>

**XXXVIII. FAIR HOUSING/EQUAL OPPORTUNITY POLICY**

CB requires full compliance with the Federal Fair Housing Act. The following activities are prohibited if they are based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing



- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, condition or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service related to the sale or rental of housing
- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

All advertising must be approved by the Managing Broker for HUD compliance prior to placement.

Sales Associate may obtain information on Fair Housing laws and rules at HUD or the Arizona Attorney General’s websites or from the following links:

[www.hud.gov/offices/fheo/FHLaws/yourrights.cfm](http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm)  
[http://www.azag.gov/civil\\_rights/fairhousing/](http://www.azag.gov/civil_rights/fairhousing/)

**XXXIX. RESPA POLICY**

The Real Estate Settlement Procedures Act of 1974 (“RESPA”) is federal law intended to protect consumers from unnecessary high settlement charges. RESPA prohibits real estate brokers and licensees from paying or accepting any fee, kickback, or “thing of value” (i.e. virtually anything that is not thrown away or discarded) pursuant to an agreement for the referral of real estate settlement services (e.g. mortgage, title, escrow inspection, homeowner’s insurance and certain other services provided as part of a residential real estate settlement). Sales Associates are expected at all times to strictly adhere to the provisions of RESPA. Sales Associate who has any doubt or concern about RESPA compliance should consult with his/her Managing Broker.

Sales Associate may obtain AAR’s RESPA Dos & Don’ts brochure from AAR’s website or from the following link:

<http://www.aaronline.com/documents/dos&donts.pdf>

**XL. ANTI-TRUST COMPLIANCE**

Sales Associate must take special care to avoid discussion with sales associates and employees of competing firms regarding the commission policy of CB, that could be construed to be agreements or conspiracies to fix, establish prices or otherwise restrain competition in violation of state and federal anti-trust laws.

Sales Associate may obtain antitrust information from NAR website or from the following link:

<http://www.realtor.org/letterlw.nsf/pages/1103antitrustbrochure>

**XLI. PARTNERSHIP AGREEMENTS BETWEEN SALES ASSOCIATES**

Sales Associates who elect to be partners shall draft an agreement between themselves. The terms of dissolution shall be clearly spelled out in the agreement.

CB bares no responsibility or liability regarding any terms or conditions between sales associates.

**XLII. SALES ASSISTANT PROGRAM**

It has become common for successful sales associates who wish to become more productive to have a Personal Assistant working with them. Once Sales Associate makes the decision to associate with a Personal Assistant, he/she must obtain the approval of the Managing Broker.

In order to ensure compliance with the laws and rules of the State of Arizona Real Estate Department, all licensed Personal Assistants to sales associates associated with CB must be licensed with CB and must complete an Independent Contractor new agent association package including, but not limited to, the ICA, commission schedule, Legal Assistance Program (“LAP”) Agreement along with payment of the LAP fee, etc.

In addition, Sales Associate and licensed or unlicensed personal assistant must also execute a copy of the Licensed or Unlicensed Sales Assistant Agreement and comply with all terms and conditions contained therein.

If an assistant is paid on any basis that relies on the ultimate sale of a property, then that person **must** be licensed.

Per ADRE, an unlicensed assistant in the employee of a licensed real estate broker may:

1. Perform telephone duties, to include calls to:
  - (a) Collect demographic information
  - (b) Solicit interest in engaging the services of a licensee or brokerage
  - (c) Set or confirm appointments (with no other discussion) for:
    - (i) Sales Associate to list or show property
    - (ii) A buyer with a loan officer
    - (iii) A property inspector to inspect a home
    - (iv) A repair/maintenance person to perform repairs/maintenance
    - (v) An appraiser to appraise property
    - (vi) Mortgage and/or title companies to track the status of a file, check daily interest rates and points, whether buyer has been qualified, confirm closing appointment for licensee, and so forth.
2. Assist Sales Associate at an open house
3. Unlock a home for a licensee so that licensee can show a buyer the property or preview the property (no discussion about the property)

4. Deliver documents (as a mail or delivery service only)

An unlicensed assistant shall not perform the following activities:

1. Hold/host an open house without Sales Associate being present
2. Perform a walk-through inspection
3. Answer questions relating to a transactional document
4. Give instructions to inspectors, appraisers or maintenance/repair people. Because these instructions are part of the licensee's regular duties and there is a direct relationship to inspectors, appraisers or repair/maintenance people

### **XLIII. REFERRAL FEES AND COMMISSION SPLITS (SHARED COMMISSIONS)**

All outbound referrals or commission splits, even if between CB offices which are not within the same metropolitan area, *must* be placed through the CB Relocation Division. A referral or commission split is permitted between CB Sales Associates **WITHIN THE SAME METROPOLITAN AREA ONLY**. The only exception is the Builders Services Division. CB's procedure is as follows:

**A.** The following items should be addressed and agreed to *in writing* by both Sales Associates when a referral to another Sales Associate is contemplated:

1. What is the referral fee?
2. Is this a client/customer referral or is this a transaction referral only?
3. Who is entitled to future business of the client or customer?
4. Is the referral agreement between the Sales Associates in writing?
5. Note any referral information on the listing/sales or listing information sheet.

**B.** Complete the CB Metropolitan Area Referral or Commission Split Agreement form memorializing item #1 above.

**C.** Introduce the client to the new Sales Associate and explain that the exchange will result in better and more personalized service.

#### **Referrals through CB Network**

**Outgoing Referrals**  
**Corporate Property Listing Referrals**  
**Personal REO/Corporate Listings**  
**Incoming Inter-Company Referrals**

See the *Relocation Policy & Procedures Manual* for more information.

### **XLIV. DISCOUNTS ON REAL ESTATE COMMISSIONS**

#### **A. Sales Associates**

All CB Sales Associates will be eligible for two commission-free **residential** transaction sides (improved residential property of four units or less) each calendar year

with payment of a \$400.00 administration fee per transaction side outside of escrow, provided the following criteria are met.

1. He/she has been associated with or employed by Company for a minimum of 6 months;
2. He/she has earned \$8,000 since associating with the Company;
3. He/she is the owner or purchaser (**cannot** be a family member);
4. He/she is associated with the Company when the transaction closes;
5. He/she utilizes the AAR Purchase Contract;
6. He/she provides the buyer with a completed SPDS; and
7. He/she has a home inspection;

Additionally, the Sales Associate must utilize Affiliated Settlement Service Providers where available. Other than the separate payment of the \$400.00 administration fee outside of escrow, the Sales Associate will not need to pay nor be entitled to receive any commission on the Sales Associate's side of the transaction. If the Sales Associate is the seller, the only commission the Sales Associate must pay is the selling commission. If the Sales Associate is the buyer, he/she shall not be required to take a selling commission.

The transaction documents must be turned in to the Sales Associate's Managing Broker at the time of the transaction so that CB will have a transaction file on record. Prior to closing, Sales Associate should submit a personal check for the \$400.00 administrative fee (it is not to be processed through the title company, the office staff will forward it to accounting on a miscellaneous cash receipts transmittal).

If Sales Associate is the seller and has a client that is interested in purchasing the Sales Associate's property, the Sales Associate must have another Sales Associate represent the buyer. A normal selling commission will always be collected. If the Sales Associate is buying a property which happens to be the Sales Associate's listing, the company requires that the Sales Associate have another Sales Associate substituted as the listing Sales Associate so that the seller has independent representation and any potential for a conflict of interest is removed from the transaction. A normal listing commission will always be collected and split in accordance with the Sales Associate's current commission level. The commission free side is only the side with which Sales Associate is personally involved.

If Sales Associate processes the listing or selling commission through the title company so that the commission appears on the settlement statement, the commission shall be subject to a royalty fee, and the amount the Sales Associate receives will be considered taxable income to the Sales Associate and will be reported as 1099 earnings. If Sales Associate has the full selling commission credited toward their closing costs, etc., the commission is not subject to a royalty fee. The \$400 administrative fee is always required.

Since Sales Associates are licensees associated with CB (this also applies to employees if they are licensed), any and all transactions in which Sales Associate is involved as a principal (seller, buyer, landlord and/or tenant) must be processed through CB. If Sales Associate is selling a property, the transaction must be handled by CB.

Sales Associate may also include residential leases as one of their two personal annual commission-free transactions. There will be an administrative fee of \$25.00 due to CB from the Sales Associate at the time of the execution of the lease.

**NOTE: SALES ASSOCIATE IS NOT COVERED UNDER THE COMPANY'S LAP PROGRAM IF THEY REPRESENT THEMSELVES IN THE SALE OF THEIR OWN PERSONAL PROPERTY OR REPRESENT THEMSELVES IN THE PURCHASE OF A PROPERTY**

## **B. General Guidelines**

Sales Associates must be named on the title to be eligible for the commission free discount. Disclosures are required, so therefore, the following statements shall be included as follows:

In any transaction where Sales Associate is either a buyer or seller, the following statement shall be inserted in the purchase contract and in such other documents as required by applicable state law:

“It is understood by all parties that [*name of participant*] is a licensed real estate broker or salesperson in Arizona.”

## **XLV.**

### **PRIVACY TIPS**

#### **A. Protecting Personally Identifiable Information (PII)**

Personally Identifiable Information (PII) is information that can uniquely identify someone. Typical examples are: name, address, social security number, date of birth, bank account number, loan number, credit card or debit card number (access code or password) and driver's license number.

Protecting PII is important to our business, not only for our agents but also for our customers and clients, as failure to protect PII can lead to identity theft. Safeguarding PII makes good personal and business sense.

1. Sales Associate should take stock of the information in their control. Know what PII is on Sales Associate's desk, in their file and on their computer. Identify sensitive electronic files and documents containing PII by marking them “Restricted Confidential”.
2. Documents with PII which may be in Sales Associate's control, include but are not limited to:
  - (a) Seller's short sale financial and/or other PII sent to their lender.
  - (b) Lease Applications with an applicant's PII.
3. Sales Associate should remove personal account numbers and personal information from copies of checks before they are forwarded to other sales associates or agents.

4. Scale down on the records you keep. Retain only what is needed for sale or lease transactions or other legal purposes.
5. Protect the information that is kept. Lock offices, file cabinets, desks, drawers and laptops. Limit access to areas and databases containing PII. Secure electronic information by using passwords. SALES ASSOCIATE SHOULD NEVER LEAVE FILES WITH PII IN THEIR CAR.
6. Sales Associate must lock or sign off his/her computer every time he/she walks away from the computer.
7. Properly dispose of what is no longer needed. For instance, once a short sale closes escrow, do not keep the seller's financial and/or other PII. Once a Lease Application is transmitted to Office of the Broker, do not keep those forms in the file. Shredding is the only acceptable means of destroying paper documents that contain PII. For electronic information, use wipe utility programs on computers, laptops and PDAs.
8. PLAN AHEAD. Take steps now to identify areas of concern or vulnerability.

## **XLVI. COMMISSIONS**

### **A. Commission Compensation**

Sales Associate's compensation is based upon the commission level set forth in his/her written Commission Agreement that is reviewed annually. Commission levels and royalty fees may vary from region to region. Consult the Managing Broker.

### **B. Payment of Commission**

Prior to a scheduled closing, the Managing Broker will submit an Order to Pay Commission form to the title company. This form instructs the title company to issue separate checks to Sales Associates and CB and deliver the checks directly to the Branch Office. Upon receipt of the checks at Branch Office, the Managing Broker will review the checks for accuracy and the transaction file for completeness. If Sales Associate does not complete the necessary title information section of the internal Sales/Listing Transaction Information Sheet, an Order to Pay form will not be submitted to the title company.

Any modification of the Order to Pay must be initialed and approved by the Managing Broker. If this procedure is not followed, the full amount of the reduction may be taken from the Sales Associate's portion of the commission.

If Sales Associate neglects to report a referral fee is due, he/she will need to forward a check payable to CB for his/her proportionate share.

Rental commissions, outgoing referrals and other income will continue to be processed through our corporate offices.

By law Sales Associate may only be paid by his/her Designated Broker. Therefore, commission checks are to be delivered by the title company to the Managing Broker for

delivery to the Sales Associate. Do not attempt to pick up a commission check from the title company.

### **C. Commission Negotiations and Commission Deferrals**

CB does not negotiate commissions or deferrals. Sales Associate does not have the authority to approve any company commission reductions or commission deferral. If this policy is not followed, the full amount of the reduction or deferral may be taken from the Sales Associate's portion of the commission.

### **D. Bonuses or Incentives**

In any transaction where a bonus or other incentive is offered in addition to or in lieu of commission, CB retains the right to determine how the bonus or incentive will be split between the Sales Associate and CB. Any portion of the bonus or incentive paid to or received by the Sales Associate shall be subject to the stated royalty fee.

### **E. Non-Refundable Retainer Fees**

CB is a full service real estate brokerage. The Company does not offer its clients fee-based limited or "unbundled" real estate brokerage services. Sales Associate may not require or request a selling or buying client or a landlord or tenant to pay a "non-refundable retainer fee" for initial consultation and/or research. Sales Associate shall not use a "non-refundable retainer fee" option if one is provided for in local association forms customarily used in their local market for exclusive listing agreements and/or buyer-broker agreements.

### **F. Commission Level Rollbacks**

Each Independent Contractor executes a Commission Agreement when he/she associates with CB that establishes the commission level that the Sales Associate is to be paid for their first anniversary year with CB. Each subsequent year, at one's anniversary, the Sales Associate executes a new commission agreement at a level that is determined by their prior year anniversary earnings.

All commissions/earnings paid after an Independent Contractor has disassociated from CB will be paid at 50% (less the applicable royalty fee) including those commissions/earnings paid to a Tenured Sales Associates.

## **XLVII. DISASSOCIATION POLICY**

CB'S procedures for processing the disassociation of Sales Associates leaving CB should be followed whenever a disassociation occurs.

1. All Company property (keys, key card, etc.) is to be returned to the Managing Broker.
2. In accordance with the Independent Contractor Agreement, all listings are the property of the Designated Broker and remain with CB after Sales Associate disassociates.

3. An exit interview may be requested between the disassociating Sales Associate and the Designated Broker, Managing Broker or senior management of CB.
4. Severance is not effective until the ADRE receives notice of severance.
5. Sales Associates owing any sum to CB will repay the sum in full at the time of dissociation or make arrangements for repayment that are evidenced by a promissory note to CB signed by the Sales Associate. Any outstanding financial obligation that is not settled will be deducted from any future commission check due the Sales Associate.
6. Listings and escrows will be subject to the most current Independent Contractor Agreement signed by Sales Associate on file with CB and ADRE rules and regulations. Any commissions received after disassociation will be paid to Sales Associate at 50% subject to the royalty fee.
7. No portion of the annual Legal Assistance Program Fee will be refunded to Sales Associate upon disassociation with CB.

#### **XLVIII. EMPLOYEES**

Employees are governed by the policies and procedures for Realogy Corporation. Employees may obtain copies of these policies from the Realogy AtHome website or from the following link:

[https://athome.realogy.com/company\\_policies/](https://athome.realogy.com/company_policies/)